

# The Gazette of India



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Separate paging is given to this Part in order that it may be filed as a separate compilation

## PART V

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA

### LEGISLATIVE ASSEMBLY DEPARTMENT

The following \*Bill was introduced in the Legislative Assembly on the 4th November 1946:—

L. A. BILL No. 44 of 1946

*A Bill to restrict the opening and removal of branches by banking companies*

WHEREAS it is expedient to restrict the indiscriminate opening and removal of branches by banking companies ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Banking Companies (Restriction of Branches) Act, 1946. Short title and extent.

(2) It extends to the whole of British India.

2. In this Act,—

Interpretation.

(a) “ banking company ” means a banking company as defined in section 277F of the Indian Companies Act, 1913 ;

(b) “ branch ” includes any sub-office, pay-office, sub-pay-office and any place of business of a banking company at which deposits are received, cheques cashed or moneys lent ;

(c) the expression “ officer ” has the meaning assigned to it in the Indian Companies Act, 1913 ;

(d) “ Reserve Bank ” means the Reserve Bank of India.

3. (1) No banking company shall open a new branch or change the location of an existing branch without obtaining prior permission in writing from the Reserve Bank. Restriction on opening and removal of branches.

\*The Governor General has been pleased to give the previous sanction required by section 153 of the Government of India Act, 1935, to the introduction in the Legislative Assembly of this Bill.

(2) The Reserve Bank may, before giving the permission referred to in sub-section (1) to any banking company, take into consideration its financial condition and history, the general character of its management, the adequacy of its capital structure and earning prospects and the public interest to be served by the branch.

(3) For all or any of the purposes referred to in sub-section (2), the Reserve Bank may, with the previous approval of the Central Government, cause an inspection to be made of the books, accounts and other documents of the banking company by any competent person authorised by the Reserve Bank, and it shall be the duty of every director or other officer of the banking company to produce to any person so authorised all such books, accounts and other documents in his custody or power relating to the affairs of the banking company as the person so authorised may require of him.

(4) Any person making an inspection under sub-section (3) may examine on oath any director or other officer of the banking company in relation to its business, and may administer an oath accordingly.

#### **Penalty**

4, (1) If any banking company opens a branch or changes the location of an existing branch in contravention of section 3, every director or other officer of the banking company who is knowingly and wilfully a party to the contravention shall be liable to a fine which may extend to one hundred rupees for every day during which that branch remains open for business or, as the case may be, the change in its location continues.

(2) If any person refuses to produce any book, account or other document which under section 3 it is his duty to produce, or to answer any question relating to the business of the banking company, he shall be liable to a fine which may extend to five hundred rupees in respect of each offence, and if he persists in such refusal, to a further fine which may extend to fifty rupees for every day during which the offence continues.

#### **STATEMENT OF OBJECTS AND REASONS**

There has been in recent years a rapid increase in new branches of banks, mostly at places where adequate banking facilities are already available. Complaints have been received regarding failure of some of the banks to repay deposits received at new branches. In several cases new branches have worked to the detriment of the interest of the depositors by involving heavy capitalised expenditure out of proportion to the resources of the bank, payment of high rates of interest on deposits, speculative activities to make up the higher cost, manipulation of accounts, employment of untrained and untrustworthy managers, etc. As these developments are fraught with danger to the banking structure of the country and are forestalling and vitiating in advance the provisions of the Banking Companies Bill which will take some time before it is enacted and put into force, it has become necessary to give immediate effect to clause 18 (6) of the Bill for controlling branch banking. This Bill is designed for this purpose.

LIAQUAT ALI KHAN.

NEW DELHI :

The 29th October, 1946.

The following \*Bill was introduced in the Legislative Assembly on the 4th November 1946:—

L. A. BILL No 45 of 1946

*A Bill further to amend the Reserve Bank of India Act, 1934.*

WHEREAS it is expedient further to amend the Reserve Bank of India Act, 1934, for the purposes hereinafter appearing; ¶

It is hereby enacted as follows :—

1. This Act may be called the Reserve Bank of India Short title (Amendment) Act, 1946.

2. Section 31 of the Reserve Bank of India Act, 1934, shall be renumbered as sub-section (1) of that section and to the section as so renumbered the following sub-section shall be added, namely :—

XXVI of 1881 “ (2) Notwithstanding anything contained in the Negotiable Instruments Act, 1881, no person in British India other than the Bank or, as expressly authorised by this Act, the Central Government shall make or issue any promissory note expressed to be payable to the bearer of the instrument.”

3. The Bearer Promissory Notes (Prohibition of Issue) Ordinance, 1946, is hereby repealed. XVII of 1946

#### STATEMENT OF OBJECTS AND REASONS

Section 31 of the Reserve Bank of India Act prohibits the issue of bills of exchange payable to bearer on demand. It does not, however, prevent the issue of promissory notes payable to bearer after a fixed period. The issue of such promissory notes is undesirable as they not only enable anonymous holdings and thus facilitate tax evasion, but also because they would, in effect, become, after the expiry of the period, bearer bonds payable on demand and may circulate as currency. The circulation of large quantities of such bank paper, which might be issued by some banks without adequate cover, might well prejudice the credit of Government's own paper currency. It was, therefore, decided to prohibit such issues and, as some banks had already started issuing such paper which had to be stopped before any material issue was made, an Ordinance was promulgated on the 18th May, 1946, making it illegal for banks to issue promissory notes payable to bearer. The Ordinance will expire on the 18th November, 1946 and the object of this Bill is to put on a permanent footing the ban on the issue of promissory notes payable to bearer by incorporating a suitable provision in the Reserve Bank of India Act, 1934.

LIAQUAT ALI KHAN.

NEW DELHI ;

The 29th October, 1946.

\*The Governor General has been pleased to give the previous sanction required by section 153 and section 108 (i) (b) of the Government of India Act, 1935, to the introduction in the Legislative Assembly of this Bill.

The following \*Bill was introduced in the Legislative Assembly on the 4th November 1946:—

L. A. BILL No. 46 OF 1946

*A Bill to confer upon the Central Government certain powers in respect of foreigners*

WHEREAS it is expedient to provide for the exercise by the Central Government of certain powers in respect of the entry of foreigners into British India, their presence therein and their departure therefrom ;

It is hereby enacted as follows :—

**Short title and extent**

1. (1) This Act may be called the Foreigners Act, 1946.

**Definitions**

(2) It extends to the whole of British India.

2. In this Act—

(a) “foreigner” means a person who—

(i) is not a natural-born British subject as defined in sub-sections (1) and (2) of section 1 of the British Nationality and Status of Aliens Act, 1914, or

(ii) has not been granted a certificate of naturalization as a British subject under any law for the time being in force in British India, or

(iii) is not a ruler or subject of an Indian State, or

(iv) is not a native of the Tribal areas :

Provided that any British subject who, under any law for the time being in force in British India, ceases to be a British subject shall thereupon be deemed to be a foreigner

(b) “prescribed” means prescribed by orders made under this Act ;

(c) “specified” means specified by direction of a prescribed authority.

**Power to make orders**

3. (1) The Central Government may by order make provision, either generally or with respect to all foreigners or with respect to any particular foreigner or any prescribed class or description of foreigner, for prohibiting, regulating or restricting the entry of foreigners into British India or their departure therefrom or their presence or continued presence therein.

(2) In particular and without prejudice to the generality of the foregoing power, orders made under this section may provide that the foreigner—

(a) shall not enter British India, or shall enter British India only at such times and by such route and at such port or place and subject to the observance of such conditions on arrival as may be prescribed ;

(b) shall not depart from British India, or shall depart only at such times and by such route and from such port or place and subject to the observance of such conditions on departure as may be prescribed ;

\*The Governor General has been pleased to give the previous sanction required under sub-section (1) of section 108, read with section 313 (4) (a) of the Government of India Act 1935, to the introduction in the Legislative Assembly of this Bill.

(c) shall not remain in British India or in any prescribed area therein ;

(d) shall remove himself to, and remain in, such area in British India as may be prescribed ;

(e) shall comply with such conditions as may be prescribed or specified—

(i) requiring him to reside in a particular place ;

(ii) imposing any restrictions on his movements ;

(iii) requiring him to furnish such proof of his identity and to report such particulars to such authority in such manner and at such time and place as may be prescribed or specified ;

(iv) requiring him to allow his photograph and finger impressions to be taken and to furnish specimens of his handwriting and signature to such authority and at such time and place as may be prescribed or specified ;

(v) requiring him to submit himself to such medical examination by such authority and at such time and place as may be prescribed or specified ;

(vi) prohibiting him from association with persons of a prescribed or specified description ;

(vii) prohibiting him from engaging in activities of a prescribed or specified description ;

(viii) prohibiting him from using or possessing prescribed or specified articles ;

(ix) otherwise regulating his conduct in any such particular as may be prescribed or specified ;

(f) shall enter into a bond with or without sureties for the due observance of, or as an alternative to the enforcement of, any or all prescribed or specified restrictions or conditions ;

(g) shall be arrested and detained or confined ; and may make provision for such incidental and supplementary matters as may, in the opinion of the Central Government, be expedient or necessary for giving effect to this Act.

4. (1) Any foreigner (hereinafter referred to as an *Internee*) in respect of whom there is in force any order made under clause (g) of sub-section (2) of section 3, directing that he be detained or confined, shall be detained or confined in such place and manner and subject to such conditions as to maintenance, discipline and the punishment of offences and breaches of discipline as the Central Government may from time to time determine.

(2) Any foreigner (hereinafter referred to as a person on parole) in respect of whom there is in force an order under clause (e) of sub-section (2) of section 3 requiring him to reside at a place set apart for the residence under supervision of a number of foreigners, shall while residing therein be subject to such conditions as to maintenance, discipline and the punishment of offences and breaches of discipline as the Central Government may from time to time by order determine.

(3) No person shall—

(a) knowingly assist an internee or a person on parole to escape from custody or the place set apart for his residence, or knowingly harbour an escaped internee or person on parole, or

(b) give an escaped internee or a person on parole any assistance with intent thereby to prevent, hinder or interfere with the apprehension of the internee or the person on parole.

(4) The Central Government may by order provide for regulating access to, and the conduct of persons in, places in British India where internees or persons on parole are detained or restricted, as the case may be, and for prohibiting or regulating the despatch or conveyance from outside such places to or for internees or persons on parole therein of such articles as may be proscribed.

#### Change of name

5. (1) No foreigner who was in British India on the date on which this Act came into force shall, while in British India after that date, assume or use or purport to assume or use for any purpose any name other than that by which he was ordinarily known immediately before the said date.

(2) Where, after the date on which this Act came into force, any foreigner carries on or purports to carry on (whether alone or in association with any other person) any trade or business under any name or style, other than that under which that trade or business was being carried on immediately before the said date, he shall, for the purposes of sub-section (1), be deemed to be using a name other than that by which he was ordinarily known immediately before the said date.

(3) In relation to any foreigner who, not having been in British India on the date on which this Act came into force, thereafter enters British India, sub-sections (1) and (2) shall have effect as if for any reference in those sub-sections to the date on which this Act came into force there were substituted a reference to the date on which he first enters British India thereafter.

(4) For the purposes of this section—

(a) the expression "name" includes a surname, and

(b) a name shall be deemed to be changed if the spelling thereof is altered.

(5) Nothing in this section shall apply to the assumption or use—

(a) of any name in pursuance of a Royal licence or permission granted by the Central Government ; or

(b) by any married woman, of her husband's name.

6. (1) The master of any vessel landing or embarking at a port in British India passengers coming to or going from that port by sea and the pilot of any aircraft landing or embarking at any place in British India passengers coming to or going from that place by air, shall furnish to such person and in such manner as may be prescribed a return giving the prescribed particulars with respect to any passengers or members of the crew, who are foreigners. Obligations of masters of vessels, etc.

(2) Any District Magistrate and any Commissioner of Police or, where there is no Commissioner of Police, any Superintendent of Police may, for any purpose connected with the enforcement of this Act or any order made thereunder, require the master of any such vessel or the pilot of any such aircraft to furnish such information as may be prescribed in respect of passengers or members of the crew on such vessel or aircraft, as the case may be.

(3) Any passenger on such vessel or such aircraft and any member of the crew of such vessel or aircraft shall furnish to the master of the vessel or the pilot of the aircraft, as the case may be, any information required by him for the purpose of furnishing the return referred to in sub-section (1) or for furnishing the information required under sub-section (2).

(4) For the purposes of this section—

(a) "master of a vessel" and "pilot of any aircraft" shall include any person authorised by such master or pilot, as the case may be, to discharge on his behalf any of the duties imposed on him by this section ;

(b) "passenger" means any person not being a *bona fide* member of the crew, travelling or seeking to travel on a vessel or aircraft.

7. (1) It shall be the duty of the keeper of any premises whether furnished or unfurnished where lodging or sleeping accommodation is provided for reward, to submit to such person and in such manner such information in respect of foreigners accommodated in such premises, as may be prescribed. Obligation of hotel keepers and others to furnish particulars.

*Explanation.*—The information referred to in this sub-section may relate to all or any of the foreigners accommodated at such premises and may be required to be submitted periodically or at any specific time or occasion.

(2) Every person accommodated in any such premises shall furnish to the keeper thereof a statement containing such particulars as may be required by the keeper for the purpose of furnishing the information referred to in sub-section (1).

(3) The keeper of every such premises shall maintain a record of the information furnished by him under sub-section (1) and of the information obtained by him under sub-section (2) and such record shall be maintained in such manner and preserved for such period as may be prescribed, and shall at all times be open to inspection by any police officer or by a person authorised in this behalf by the District Magistrate.

**Determination of nationality**

8. (1) When a foreigner is recognised as a national by the law of more than one foreign country or where for any reason it is uncertain what nationality if any is to be ascribed to a foreigner, that foreigner may be treated as the national of the country with which he appears to the prescribed authority to be most closely connected for the time being in interest or sympathy or if he is of uncertain nationality, of the country with which he was last so connected :

Provided that where a foreigner acquired a nationality by birth, he shall, except where the Central Government so directs either generally or in a particular case, be deemed to retain that nationality unless he proves to the satisfaction of the said authority that he has subsequently acquired by naturalization or otherwise some other nationality and still recognised as entitled to protection by the Government of the country whose nationality he has so acquired.

(2) A decision as to nationality given under sub-section (1) shall be final and shall not be called in question in any Court :

Provided that the Central Government, either of its own motion or on an application by the foreigner concerned, may revise any such decision.

**Burden of proof**

9. If in any case not falling under section 8 any question arises with reference to this Act or any order made or direction given thereunder, whether any person is or is not a foreigner or is or is not a foreigner of a particular class or description the onus of proving that such person is not a foreigner or is not a foreigner of such particular class or description as the case may be, shall, notwithstanding anything contained in the Indian Evidence Act, 1872, lie upon such person.

1 of 1872

**Power to exempt from application of Act**

10. The Central Government may by order declare that any or all of the provisions of this Act or the orders made thereunder shall not apply, or shall apply only with such modifications or subject to such conditions as may be specified, to or in relation to any individual foreigner or any class or description of foreigner.

**Power to give effect to orders, directions, etc.**

11. (1) Any authority empowered by or under or in pursuance of the provisions of this Act to give any direction or to exercise any other power, may, in addition to any other action expressly provided for in this Act, take, or cause to be taken such steps and use, or cause to be used, such force as may, in its opinion, be reasonably necessary for securing compliance with such direction or for preventing or rectifying any breach



thereof, or for the effective exercise of such power, as the case may be.

(2) Any police officer may take such steps and use such force as may, in his opinion, be reasonably necessary for securing compliance with any order made or direction given under or in pursuance of the provisions of this Act or for preventing or rectifying any breach of such order or direction.

(3) The power conferred by this section shall be deemed to confer upon any person acting in exercise thereof a right of access to any land or other property whatsoever.

12. Any authority upon which any power to make Power to delegate or give any direction, consent or permission or to do any authority other act is conferred by this Act or by any order made thereunder may, unless express provision is made to the contrary, in writing authorise, conditionally or otherwise, any authority subordinate to it to exercise such power on its behalf, and thereupon the said subordinate authority shall, subject to such conditions as may be contained in the authorisation, be deemed to be the authority upon which such power is conferred by or under this Act.

13. (1) Any person who attempts to contravene, or Attempts, etc., abets or attempts to abet, or does any act preparatory contravene the to, a contravention of, the provisions of this Act or of provisions of this any order made or direction given thereunder, or fails Act, etc. to comply with any direction given in pursuance of any such order, shall be deemed to have contravened the provisions of this Act.

(2) Any person who, knowing or having reasonable cause to believe that any other person has contravened the provisions of this Act or of any order made or direction given thereunder, gives that other person any assistance with intent thereby to prevent, hinder or otherwise interfere with his arrest, trial or punishment for the said contravention shall be deemed to have abetted that contravention.

(3) The master of any vessel or the pilot of any aircraft, as the case may be, by means of which any foreigner enters or leaves British India in contravention of any order made under, or direction given in pursuance of, section 3 shall, unless he proves that he exercised all due diligence to prevent the said contravention, be deemed to have contravened this Act.

14. If any person contravenes the provisions of this Penalties Act or of any order made thereunder, or any direction given in pursuance of this Act or such order, he shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine; and if such person has entered into a bond in pursuance of clause (f) of sub-section (2) of section 3, his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof, or show cause to the satisfaction of the convicting Court why such penalty should not be paid,

Protection to persons acting under this Act

15. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Application of other laws not barred

16. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the Registration of Foreigners Act, 1939, the Indian Passport Act, XVI of 1930 1920, and of any other enactment for the time being in force. XXXIV of 1920

Repeals

17. The Foreigners Act, 1864, the Foreigners Act, III of 1864 1940, and the Foreigners Act (Amendment) Ordinance, II of 1940 1946, are hereby repealed. XXI of 1946

### STATEMENT OF OBJECTS AND REASONS

At present the only permanent measures governing foreigners specifically are the Registration of Foreigners Act of 1939 and the Foreigners Act, 1864. The Act of 1939 provides for the making of rules to regulate registration of foreigners and formalities connected therewith, their movement in, or departure from, India. The Act of 1864 provides for the expulsion of foreigners and their apprehension and detention pending removal and for a ban on their entry into India after removal; the rest of the Act which provides for report on arrival, travel under a license and certain incidental measures, can be enforced only on the declaration of an emergency. The powers under this Act have been found to be ineffective and inadequate both during normal times and during an emergency.

2. The needs of the war emergency were met by the enactment of a Foreigners Ordinance in 1939 and the promulgation under it of the Foreigners Order and the Enemy Foreigners Order. Even at that time the need for more satisfactory permanent legislation was recognised but it was decided to postpone consideration of such a measure until after the war. The Ordinance was, therefore, replaced by the Foreigners Act, 1940, the life of which was to expire on the 30th September, 1946 but has recently been extended by the Foreigners Act (Amendment) Ordinance, 1946, up to the 25th March 1947.

3. Meanwhile the question of permanent legislation, more or less on the lines of the Act of 1940, has been examined, in consultation with the Provincial Governments. All Provincial Governments agree that such permanent legislation in repeal of the Act of 1864 is necessary. The Bill in the main reproduces the provisions of the Foreigners Act of 1940.

V. J. PATEL.

NEW DELHI;

The 28th October, 1946.

The following Bill was introduced in the Legislative Assembly on the 4th November 1946:—

L. A. BILL NO. 47 OF 1946

*A Bill further to amend the Indian Extradition Act, 1903*

WHEREAS it is expedient further to amend the Indian Extradition Act, 1903, for the purpose herein-after appearing; XV of 1903

It is hereby enacted as follows:—

Short title

1. This Act may be called the Indian Extradition (Amendment) Act, 1946.

2. Section 8A of the Indian Extradition Act, 1903, shall be renumbered as sub-section (1) of that section, and to the section as so renumbered the following sub-section shall be added, namely :—

Amendment of  
section 8A, Act  
XV of 1903

“(2) In the case of any bond executed in pursuance of this section, the District Magistrate or the Chief Presidency Magistrate, as the case may be, may exercise the powers conferred by the Code of Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of sureties.”

#### STATEMENT OF OBJECTS AND REASONS

There is no provision in section 8A of the Indian Extradition Act, 1903, corresponding to sub-section (4) of section 8 of the same Act. The procedure laid down in section 514 of the Criminal Procedure Code cannot therefore be applied to bonds taken under the former section with the result that while the District Magistrate or the Chief Presidency Magistrate, as the case may be, has power to execute a warrant duly issued by a Political Agent or, on the appearance of the person arrested, to release him on bail, he has no power to enforce the bail bond and sureties if the bond is forfeited. The Bill proposes an amendment of section 8A of the Act which is intended to remove this defect.

V. J. PATEL.

NEW DELHI :

The 26th October, 1946.

The following \*Bill was introduced in the Legislative Assembly on the 4th November 1946:—

#### L. A. BILL No. 48 OF 1946

*A Bill to make provision for the constitution of a special police force for the Chief Commissioner's Province of Delhi for the investigation of certain offences committed in connection with matters concerning Departments of the Central Government, for the superintendence and administration of the said force and for the extension to other areas in British India of the powers and jurisdiction of members of the said force in regard to the investigation of the said offences.*

WHEREAS it is necessary to constitute a special police force for the Chief Commissioner's Province of Delhi for the investigation of certain offences committed in connection with matters concerning Departments of the Central Government and to make provision for the superintendence and administration of the said force and for the extension to other areas in British India of the powers and jurisdiction of the members of the said force in regard to the investigation of the said offences ;

\*The Governor General has been pleased to give the previous sanction required by section 108 (1) of the Government of India Act, 1935, to the introduction in the Legislative Assembly of this Bill.

It is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the Delhi Special Police Establishment Act, 1946.

(2) It extends to the whole of British India.

Constitution and powers of special police establishment.

2. (1) Notwithstanding anything in the Police Act, 1861, the Central Government may constitute <sup>V of 1861</sup> a special police force to be called the Delhi Special Police Establishment for the Chief Commissioner's Province of Delhi for the investigation in that Province of offences notified under section 3.

(2) Subject to any orders which the Central Government may make in this behalf, members of the said police establishment shall have throughout the Chief Commissioner's Province of Delhi, in relation to the investigation of such offences and arrest of persons concerned in such offences, all the powers, duties, privileges and liabilities which police officers of that Province have in connection with the investigation of offences committed therein.

(3) Any member of the said police establishment of or above the rank of Sub-Inspector may, subject to any orders which the Central Government may make in this behalf, exercise in the Chief Commissioner's Province of Delhi any of the powers of the officer in charge of a police station in the area in which he is for the time being and when so exercising such powers shall, subject to any such orders as aforesaid, be deemed to be an officer in charge of a police station discharging the functions of such an officer within the limits of his station.

Offences to be investigated by special police establishment.

3. The Central Government may, by notification in the official Gazette, specify the offences or classes of offences committed in connection with matters concerning Departments of the Central Government which are to be investigated by the Delhi Special Police Establishment.

Superintendence and administration of special police establishment.

4. (1) The superintendence of the Delhi Special Police Establishment shall vest in the Central Government.

(2) The administration of the said police establishment shall vest in an officer appointed in this behalf by the Central Government who shall exercise in respect of that police establishment such of the powers exercisable by an Inspector-General of Police in respect of the police force in a Province, as the Central Government may specify in this behalf.

Extension of powers and jurisdiction of special police establishment to other areas.

5. (1) The Central Government may by order extend to any area (including Railway areas) in British India outside the Chief Commissioner's Province of Delhi the powers and jurisdiction of members of the Delhi Special Police Establishment for the investigation of any offences or classes of offences specified in a notification under section 3.

(2) When by an order under sub-section (1) the powers and jurisdiction of members of the said police establishment are extended to any such area, a member thereof may, subject to any orders which the Central Government may make in this behalf, discharge the functions of a police officer in that area and shall, while so discharging such functions, be deemed to be a member of the police, force of that area and be vested with the powers, functions and privileges and be subject to the liabilities of a police officer belonging to that police force.

6. Nothing contained in section 5 shall be deemed to enable any member of the Delhi Special Police Establishment to exercise powers and jurisdiction in any area in British India outside the Chief Commissioner's Province of Delhi, not being a Railway area, without the consent—

Consent of Provincial Government to exercise of powers and jurisdiction.

(a) in case such area is in a Governor's Province, of the Government of that Province; and

(b) in case such area is in a Chief Commissioner's Province, of the Chief Commissioner.

7. The Delhi Special Police Establishment Ordinance, 1946, is hereby repealed.

Repeal of Ord. XXII of 1946.

### STATEMENT OF OBJECTS AND REASONS

In 1943 the Government of India set up a police staff called the Special Police Establishment (War Department) under the Special Police Establishment (War Department) Ordinance No. XXII of 1943 for the purpose of investigating offences of bribery and corruption connected with the Departments of the Central Government. The organisation has done useful work in the investigation of cases in which employees and contractors of the Central Government were involved and in bringing offenders to book. The Government of India, with the advice of the Standing Committee of the Central Legislature for the Home Department, have decided that it is necessary to retain this police staff on a permanent basis by means of legislation. The Special Police Establishment (War Department) Ordinance, No. XXII of 1943, lapsed on 30th September 1946 and necessary legislation could not be undertaken before that date. To avoid a break in continuity an Ordinance entitled the Delhi Special Police Establishment, 1946 (XXII of 1946) was promulgated on the 25th September 1946, which will remain in force up to 25th March 1947. The object of this Bill is the retention of the special police staff as a permanent organisation by means of legislation. Under the terms of the proposed Bill the force will be able to conduct investigations in all Provinces with their consent. All Provincial Governments with the exception of Sind have agreed to the special police staff functioning in their jurisdiction.

V. J. PATEL.

NEW DELHI ;  
The 28th October 1946.

The following Bill was introduced in the Legislative Assembly on the 4th November 1946:—

L. A. BILL No. 49 OF 1946

*A Bill further to amend the Indian Railways Act, 1890*

WHEREAS it is expedient further to amend the Indian Railways Act, 1890, for the purpose hereinafter appearing; IX of 1890

It is hereby enacted as follows:—

Short title

1. This Act may be called the Indian Railways (Amendment) Act, 1946.

Amendment of  
section 75, Act  
IX of 1890

2. In sub-section (1) of section 75 of the Indian Railways Act, 1890, for the words "one hundred rupees" the words "three hundred rupees" shall be substituted.

### STATEMENT OF OBJECTS AND REASONS

Section 75 of the Indian Railways Act, 1890, protects Railways from liability for loss, destruction or deterioration of any package or parcel containing articles mentioned in the Second Schedule, the value of which exceeds Rs. 100, unless its contents and value are declared and an arrangement is made for the payment of a percentage on the value so declared by way of compensation for increased risk. At the time the section was framed, these articles were considered of exceptional value if their cost exceeded Rs. 100. In recent years, however, the price of such articles, in common with others carried by rail, has increased to such an extent that a higher level of Rs. 300 is now considered a more reasonable basis for Railways asking for special protection in respect of their carriage. The present Bill has the object of raising the level of the value of packages or parcels containing articles mentioned in the Second Schedule in respect of the carriage of which Railways ask for special protection from one hundred rupees to three hundred rupees.

M. ASAF ALI.

NEW DELHI;

The 30th October 1946.

The following \*Bill was introduced in the Legislative Assembly on the 4th November 1946:—

L. A. BILL No. 50 OF 1946

*A Bill to make certain provisions in relation to sentences and orders passed by Special Tribunals constituted under the Criminal Law Amendment Ordinance, 1943, on such Tribunals ceasing to function.*

WHEREAS it is expedient to make certain provisions in relation to sentences and orders passed by Special Tribunals constituted under the Criminal Law Amendment Ordinance, 1943, on such Tribunals ceasing to function;

XXIX  
1948

\*The Governor General has been pleased to give the previous sanction required by clause (b) of sub-section (1) of section 108 of the Government of India Act, 1935, to the introduction in the Legislative Assembly of this Bill.

It is hereby enacted as follows :—

- |               |   |   |
|---------------|---|---|
|               | 1. (1) This Act may be called the Special Tribunals (Supplementary Provisions) Act, 1946.   | Short title and extent  |
|               | (2) It extends to the whole of British India.   |   |
| XXIX of 1943  | 2. In this Act, "Special Tribunal" means a Special Tribunal constituted under the Criminal Law Amendment Ordinance, 1943.   | Interpretation  |
| V of 1898     | 3. When any Special Tribunal ceases to function, the sentences or orders passed by it in any case shall, for the purposes of the provisions of the Code of Criminal Procedure, 1898, applicable in respect of those sentences or orders, be deemed to have been passed by the Court of Session within the local limits of whose jurisdiction the offences charged in the case are alleged to have taken place, or, if there be more than one such Court of Session, by such one of them as the High Court, either in appeal or in revision or on a reference made to it specially in this behalf, may determine : | Provision regarding sentences and orders of Special Tribunals which cease to function |
|               | Provided that the references in this section to a Court of Session shall, where the offences charged in the case are alleged to have taken place in a Presidency town, be construed as references to the Chief Presidency Magistrate.   |   |
| XXIII of 1946 | 4. The Special Tribunals (Supplementary Provisions) Ordinance, 1946, is hereby repealed.  | Repeal  |

#### STATEMENT OF OBJECTS AND REASONS

The Criminal Law Amendment Ordinance, 1943 (XXIX of 1943), provided for the constitution of Special Tribunals for the trial of specified cases allotted to them by the Central Government. Two of these Tribunals ceased to exist on the 1st October 1946. As questions were bound to arise as to the Courts which should be regarded as their successors for the purposes of the Code of Criminal Procedure (such as for directing execution of sentences and receiving orders passed by the High Court on appeal or revision), it was considered necessary to make express statutory provisions for the determination of such questions before the Special Tribunals ceased to function. As the Central Legislature was not then in session, the necessary provisions were enacted by the promulgation of the Special Tribunals (Supplementary Provisions) Ordinance, 1946 (XXIII of 1946). This Bill is intended to replace that Ordinance.

2. The Bill provides that where any Special Tribunal ceases to function, sentences or orders passed by it will be deemed for the purposes of the Code of Criminal Procedure to have been passed by the Court of Session within the local limits of whose jurisdiction the offences charged in the case were committed, or, if there be more than one such Court of Session, by such one of them as may be determined by the High Court.

3. The Bill also repeals the Special Tribunals (Supplementary Provisions) Ordinance, 1946.

NEW DELHI ;

JOGENDRA NATH MANDAL.

The 29th October 1946.

The following \*Bill was introduced in the Legislative Assembly on the 4th November 1946:—

L. A. BILL No. 51 OF 1946

*A Bill further to amend the Indian Army Act, 1911 and the Indian Air Force Act, 1932, for certain purposes and to make certain consequential amendments to the Administrator General's Act, 1913.*

WHEREAS it is expedient further to amend the Indian Army Act, 1911 and the Indian Air Force Act, 1932, for the purposes hereinafter appearing and to make certain consequential amendments to the Administrator General's Act, 1913;

III of 1911  
XIV of 1932.  
III of 1913.

It is hereby enacted as follows:—

short title.

1. This Act may be called the Indian Army and the Indian Air Force (Amendment) Act, 1946.

Amendment of section 114, Act VIII of 1911.

2. In section 114 of the Indian Army Act, 1911,—

(i) in the opening paragraph for the word “rules” the word “provisions” shall be substituted and after the words “this Act” the words “not being an Indian commissioned officer,” shall be inserted;

(ii) in clause (2) the words “Government savings” shall be omitted and for the word “secretary” the words “agent, manager” and for the words “departmental rules” the words “rules of the bank” shall be substituted;

(iii) in clause (4) after the words “cause the moveable property to be sold by public auction” the words “and may convert into money any Post Office Cash Certificates and Defence Savings Certificates” and after the words “proceeds of the sale” the words “or conversion”, shall be inserted;

(iv) clause (7) and the *Explanations* shall be omitted and clause (8) shall be renumbered (7);

(v) for clause (7) as so renumbered the following clause shall be substituted, namely:—

“(7) The decision of the commanding officer as to what are the regimental and other debts in camp or quarters of a deceased person or deserter or as to the amount payable therefor, shall be final.”

Substitution of new sections for section 116, Act VIII of 1911.

3. For section 116 of the Indian Army Act, 1911, the following sections shall be substituted, namely:—

Application of sections 114 and 115 to lunatics, etc.

“116. The provisions of sections 114 and 115 shall, so far as they can be made applicable, apply in the case of a person subject to this Act, not being an Indian commissioned officer, who, notwithstanding anything

\*His Excellency the Governor General has been pleased to give the previous sanction required by section 103 (1) (c) read with section 313 (4) (a) of the Government of India Act, 1935, to the introduction in the Legislative Assembly of this Bill.



IV of 1912. contained in the Indian Lunacy Act, 1912, is ascertained in the prescribed manner to be insane, or, who, being on active service, is officially reported missing, as if he had died on the day on which his insanity is so ascertained, or, as the case may be, on the day on which he is officially reported missing :

Provided that in the case of a person so reported missing no action shall be taken under clauses (2) to (5) of section 114 until such time as such person is officially presumed to be dead.

116A. The provisions of sections 116B to 116I, inclusive, shall apply to the disposal of the property of Indian commissioned officers subject to this Act, who die or desert. Property of Indian commissioned officers who die or desert.

116B. (1) On the death or desertion of an Indian commissioned officer, a Committee of Adjustment appointed in this behalf in the manner prescribed (hereinafter referred to as the Committee) shall, as soon as may be, subject to the rules made in this behalf under this Act,— Powers of Committee of Adjustment.

(a) secure all the moveable property belonging to the deceased or deserter, that is in camp or quarters and cause an inventory thereof to be made and ascertain the pay and allowances, if any, due to him ; and

(b) ascertain the amount, and provide for the payment, of the regimental and other debts in camp or quarters (if any) of the deceased or deserter.

(2) In the case of a deceased Indian commissioned officer whose representative, widow (if any) or next of kin has given security to the satisfaction of the Committee for the payment of the regimental and other debts in camp or quarters (if any) of the deceased, the Committee shall deliver any property received by it under sub-section (1) to that representative, widow or next of kin, as the case may be, and shall not further interfere in relation to the property of the deceased.

(3) In the case of a deceased Indian commissioned officer, the Committee, save as may be prescribed, shall, if it appears to it necessary for the payment of regimental and other debts in camp or quarters and the expenses, if any, incurred by the Committee, and may, in any other case, collect all moneys left by the deceased in any bank (including any post office savings bank, however named) and for that purpose may require the agent, manager or other proper officer of the bank to pay the moneys to the Committee forthwith, and such agent, manager or other officer shall be bound to comply with the requisition notwithstanding anything in any rules of the bank ; and when any money has been paid by a bank in compliance with the requisition under this sub-section, no person shall have a claim against the bank in respect of such money.

(4) In the case of a deceased Indian commissioned officer whose estate has not been dealt with under sub-section (2) and in the case of a deserter, the Committee, subject to any rules made in this behalf under this Act, shall, for the purpose of paying the regimental and other debts in camp or quarters, and may in any other case, sell or convert into money such of the moveable property of the deceased or deserter as does not consist of money.

(5) The Committee shall, out of the moneys referred to in sub-sections (3) and (4), pay the regimental and other debts in camp or quarters (if any) of the deceased or deserter and, in the case of a deceased officer, also the expenses of his last illness and funeral.

(6) In the case of a deceased Indian commissioned officer the surplus (if any) shall be remitted to the prescribed person.

(7) In the case of an Indian commissioned officer who is a deserter, the surplus (if any) shall be forthwith remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to His Majesty, unless the deserter shall in the meantime have surrendered or been apprehended.

(8) If in any case a doubt or difference arises as to what are the regimental and other debts in camp or quarters of a deceased officer or deserter or as to the amount payable therefor, the decision of the prescribed person shall be final and shall be binding on all persons for all purposes.

(9) For the purpose of the exercise of its duties under this section, the Committee shall, to the exclusion of all authorities and persons whomsoever, have the same rights and powers as if it had taken out representation to the deceased, and any receipt given by the Committee shall have effect accordingly.

Power of Central Government to hand over the estate of a deceased officer to Administrator General.

116C. (1) Notwithstanding anything contained in the Administrator General's Act, 1913, an Administrator General shall not interpose in any manner in relation to any property of a deceased Indian commissioned officer except in prescribed cases or except when and in so far as he is expressly required or permitted to do so by or under the provisions contained in this Chapter.

III of 1913

(2) The Central Government may at any time and in such circumstances as it thinks fit direct that the estate of a deceased Indian commissioned officer shall be handed over by the Committee to the Administrator General of a Province for administration and thereupon the Committee shall make over the estate to such Administrator General.

(3) Where under this section any estate is handed over to the Administrator General, he shall administer the estate in accordance with the provisions of the Administrator General's Act, 1913 :

III of 1913.

Provided that the regimental and other debts in camp or quarters of the deceased officer (if any) shall be paid in priority to any other debt due by him.

(4) The Administrator General shall pay the surplus, if any, remaining in his hands after discharging all debts and charges, to the heirs of the deceased and, if no heir is traceable, shall remit such surplus to the prescribed person in the prescribed manner.

(5) The Administrator General shall not charge in respect of his duties any fee exceeding three per cent. of the gross amount coming to or remaining in his hands after payment of the regimental and other debts in camp or quarters.

116D. On receipt of the surplus referred to in sub-section (6) of section 116B or sub-section (4) of section 116C, the prescribed person shall proceed as follows :—

(1) If he knows of a representative of the deceased, he shall pay the surplus to that representative.

(2) If he does not know of any such representative, he shall publish every year a notice in the prescribed form and manner for six consecutive years. If no claim to the surplus is made by a representative of the deceased within six months after the publication of the last of such notices, the prescribed person shall deposit the surplus together with any income or accumulation of income accrued therefrom to the credit of the Central Government :

Provided that such deposit shall not bar the claim of any person to such surplus or any part thereof.

116E. Where any part of the estate of a deceased Indian commissioned officer consists of effects, securities or other property not converted into money, the provisions of section 116B and section 116D with respect to paying the surplus shall, save as may be prescribed, extend to the delivery, transmission or transfer of such effects, securities or property, and the prescribed person shall have the same power of converting the same into money as a representative of the deceased.

116F. Property deliverable and money payable to the representative of a deceased Indian commissioned officer under section 116B or section 116D may, if the total amount or value thereof does not exceed one thousand rupees, and, if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, succession certificate or other such conclusive evidence of title.

116G. Any payment of money or delivery, application, sale or other disposition of any property or money made, or in good faith purported to be made, by the prescribed person and the Crown.

Committee or the proscribed person in pursuance of section 116B, section 116D, section 116E or section 116F shall be valid and shall be a full discharge to the Committee or the proscribed person, as the case may be, and to the Crown from all further liability in respect of that money or property; but nothing herein contained shall affect the right of any executor or administrator or other representative, or of any creditor of the deceased officer against any person to whom such payment or delivery has been made.]

**Property in the hands of the Committee or the proscribed person not to be assets at the place where the Committee or the proscribed person is stationed.**

116H. Any property coming under section 116B or under sub-section (4) of section 116C into the hands of the Committee or the proscribed person shall not, by reason of so coming, be deemed to be assets or effects at the place in which that Committee or the proscribed person is stationed and it shall not be necessary by reason thereof that representation be taken out in respect of that property for that place.

**Saving of rights of representative.**

116I. After the Committee has deposited with the proscribed person the surplus of the property of any deceased officer under sub-section (6) of section 116B, any representative of the deceased or any Administrator General, shall, as regards any property of the deceased not collected by the Committee and not forming part of the aforesaid surplus, have the same rights and duties as if section 116B had not been enacted.

**Application of sections 116B to 116I to lunation, etc.**

116J. The provisions of sections 116B to 116I shall, so far as they can be made applicable, apply in the case of an Indian commissioned officer who, notwithstanding anything contained in the Indian Lunacy Act, 1912, IV of 1912, is ascertained in the proscribed manner to be insane, or who, being on active service, is officially reported missing, as if he had died on the day on which his insanity is so ascertained or, as the case may be, on the day on which he is officially reported missing :

Provided that in the case of an officer so reported missing no action shall be taken under sub-sections (2) to (5) of section 116B or under section 116C until such time as he is officially presumed to be dead.

**Appointment of Standing Committee of Adjustment when officers die or desert while on active service.**

116K. When an Indian commissioned officer dies or deserts while on active service, the references in the foregoing provisions of this Chapter to the Committee shall be construed as references to the Standing Committee of Adjustment, if any, appointed in this behalf in the manner proscribed.

**Interpretation.**

116L. For the purposes of this Chapter—

(1) a person shall be deemed to be a deserter if he without authority has been absent from duty

for a period of sixty days and has not subsequently surrendered or been apprehended ;

(2) the expression 'regimental and other debts in camp or quarters ' includes money due as military debts, namely, sums due in respect of, or of any advance in respect of—

(a) quarters ;

(b) mess, band, and other regimental accounts ;

(c) military clothing, appointments and equipments, not exceeding a sum equal to six months' pay of the deceased, and having become due within eighteen months before his death ;

(3) 'representation' includes probate and letters of administration with or without the will annexed, and a succession certificate, constituting a person the executor or administrator of the estate of a deceased person or authorising him to receive or realize the assets of a deceased person ;

(4) 'representative' means any person who has taken out representation but does not include an Administrator General. "

**Amendment  
of section  
126, Act  
XIV of 1932.**

**4.** In section 126 of the Indian Air Force Act, 1932,—

(i) in the opening paragraph for the word "rules" the word "provisions" shall be substituted and after the words "this Act" the words " , not being an officer or warrant officer of the Indian Air Force," shall be inserted ;

(ii) in clause (2) the words "Government savings" shall be omitted and for the word "secretary" the words "agent, manager" and for the words "departmental rules" the words "rules of the bank" shall be substituted ;

(iii) in clause (4) after the words "cause the moveable property to be sold by public auction" the words "and may convert into money any Post Office Cash Certificates and Defence Savings Certificates", and after the words "proceeds of the sale" the words "or conversion", shall be inserted ;

(iv) clause (7) and the *Explanations* shall be omitted and clause (8) shall be renumbered (7) ;

(v) for clause (7) as so renumbered, the following clause shall be substituted, namely :—

" (7) The decision of the commanding officer as to what are the service and other debts in camp or quarters of a deceased person or deserter or as to the amount payable therefor, shall be final. "

Substitution of new sections for section 128, Act XIV of 1932.

Application of sections 126 and 127 to lunatics, etc.

5. For section 128 of the Indian Air Force Act, 1932, the following sections shall be substituted, namely:—

“128. The provisions of sections 126 and 127 shall, so far as they can be made applicable, apply in the case of a person subject to this Act (not being an officer or warrant officer of the Indian Air Force) who notwithstanding anything contained in the Indian Lunacy Act, 1912, is ascertained in the proscribed manner to be IV of 1912 insane, or, who, being on active service, is officially reported missing, as if he had died on the day on which his insanity is so ascertained, or, as the case may be, on the day on which he is officially reported missing:

Provided that in the case of a person so reported missing, no action shall be taken under clauses (2) to (5) of section 126 until such time as such person is officially presumed to be dead.

Property of officers of the Indian Air Force who die or desert.

128A. The provisions of sections 128B to 128I shall apply to the disposal of the property of the officers and warrant officers of the Indian Air Force who die or desert.

Powers of Committee of Adjustment.

128B. (1) On the death or desertion of an officer or warrant officer of the Indian Air Force a Committee of Adjustment appointed in this behalf in the manner prescribed (hereinafter referred to as the Committee) shall, as soon as may be, subject to the rules made in this behalf under this Act—

(a) secure all the movable property belonging to the deceased or deserter, that is in camp or quarters and cause an inventory thereof to be made, and ascertain the pay and allowances, if any, due to him; and

(b) ascertain the amount, and provide for the payment, of the service and other debts in camp or quarters (if any) of the deceased or deserter.

(2) In the case of a deceased officer or warrant officer whose representative, widow (if any) or next of kin has given security to the satisfaction of the Committee for the payment of the service and other debts in camp or quarters (if any) of the deceased, the Committee shall deliver any property received by it under subsection (1) to that representative, widow or next of kin, as the case may be, and shall not further interfere in relation to the property of the deceased.

(3) In the case of a deceased officer or warrant officer, the Committee, save as may be prescribed, shall, if it appears to it necessary for the payment of service and other debts in camp or quarters and the expenses, if any, incurred by the Committee, and may, in any other case, collect all moneys left by the deceased in any bank (including any post office savings bank, however named) and for that purpose may require the agent, manager or other proper officer of the bank to pay the moneys to the Committee forthwith, and such agent,

manager or other officer shall be bound to comply with the requisition notwithstanding anything in any rules of the bank ; and when any money has been paid by a bank in compliance with the requisition under this sub-section, no person shall have a claim against the bank in respect of such money.

(4) In the case of a deceased officer or warrant officer whose estate has not been dealt with under sub-section (2) and in the case of a deserter the Committee, subject to any rules made in this behalf under this Act, shall, for the purpose of paying the service and other debts in camp or quarters, and may, in any other case, sell or convert into money such of the movable property of the deceased or deserter as does not consist of money.

(5) The Committee shall, out of the moneys referred to in sub-sections (3) and (4), pay the service and other debts in camp or quarters (if any) of the deceased or deserter, and in the case of a deceased person, also the expenses of his last illness and funeral.

(6) In the case of a deceased officer or warrant officer, the surplus (if any) shall be remitted to the prescribed person.

(7) In the case of an officer or warrant officer who is a deserter, the surplus (if any) shall be forthwith remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to His Majesty, unless the deserter shall in the meantime have surrendered or been apprehended.

(8) If in any case a doubt or difference arises as to what are the service and other debts in camp or quarters of a deceased officer or deserter or as to the amount payable therefor, the decision of the prescribed person shall be final and shall be binding on all persons for all purposes.

(9) For the purpose of the exercise of its duties under this section, the Committee shall, to the exclusion of all authorities and persons whomsoever, have the same rights and powers as if it had taken out representation to the deceased, and any receipt given by the Committee shall have effect accordingly.

128C. (1) Notwithstanding anything contained in the Administrator General's Act, 1913, an Administrator General shall not interpose in any manner in relation to any property of a deceased officer or warrant officer except in prescribed cases or except when and in so far as he is expressly required or permitted to do so by or under the provisions contained in this Chapter.

Power of Central Government to hand over the estate of a deceased officer to Administrator General.

(2) The Central Government may at any time and in such circumstances as it thinks fit direct that the estate of a deceased officer or warrant officer shall be handed over by the Committee to the Administrator General of a Province for administration and thereupon the Committee shall make over the estate to such Administrator General.

(3) Where under this section any estate is handed over to the Administrator General, he shall administer the estate in accordance with the provisions of the Administrator General's Act, 1913 :

III of 1913.

Provided that the service and other debts in camp or quarters of the deceased officer (if any) shall be paid in priority to any other debt due by him.

(4) The Administrator General shall pay the surplus, if any, remaining in his hands after discharge of all debts and charges, to the heirs of the deceased and, if no heir is traceable, shall remit such surplus to the prescribed person in the prescribed manner.

(5) The Administrator General shall not charge in respect of his duties any fee exceeding three per cent. of the gross amount coming to or remaining in his hands after payment of the service and other debts in camp or quarters.

Disposal  
of surplus  
by the  
prescribed  
person.

128D. On receipt of the surplus referred to in sub-section (6) of section 128B or sub-section (4) of section 128C, the prescribed person shall proceed as follows :—

(1) If he knows of a representative of the deceased, he shall pay the surplus to that representative.

(2) If he does not know of any such representative, he shall publish every year a notice in the prescribed form and manner for six consecutive years. If no claim to the surplus is made by a representative of the deceased within six months after the publication of the last of such notices, the prescribed person shall deposit the surplus together with any income or accumulation of income accrued therefrom to the credit of the Central Government :

Provided that such deposit shall not bar the claim of any person to such surplus or any part thereof.

Disposal  
of effects  
not money.

128E. Where any part of the estate of a deceased officer or warrant officer consists of effects, securities or other property not converted into money, the provisions of section 128B and section 128D with respect to paying the surplus shall, save as may be prescribed, extend to the delivery, transmission or transfer of such effects, securities or property, and the prescribed person shall have the same power of converting the same into money as a representative of the deceased.

Disposal of  
certain  
property  
without  
production  
of probate,  
etc.

128F. Property deliverable and money payable to the representative of a deceased officer or warrant officer under section 128B or section 128D may, if the total amount or value thereof does not exceed one thousand rupees, and, if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, succession certificate or other such conclusive evidence of title.



128G. Any payment of money or delivery, application, sale or other disposition of any property or money made, or in good faith purported to be made by the Committee or the prescribed person in pursuance of section 128B, section 128D, section 128E or section 128F shall be valid and shall be a full discharge to the Committee or the prescribed person, as the case may be, and to the Crown from all further liability in respect of that money or property ; but nothing herein contained shall affect the right of any executor or administrator or other representative, or of any creditor of the deceased officer or warrant officer against any person to whom such payment or delivery has been made.

Discharge of Committee, prescribed person and the Crown.

128H. Any property coming under section 128B or under sub-section (4) of section 128C into the hands of the Committee or the prescribed person shall not, by reason of so coming, be deemed to be assets or effects at the place in which that Committee or the prescribed person is stationed and it shall not be necessary by reason hereof that representation be taken out in respect of that property for that place.

Property in the hands of the Committee or the prescribed person not to be assets at the place where the Committee or the prescribed person is stationed.

128I. After the Committee has deposited with the prescribed person the surplus of the property of any deceased officer or warrant officer under sub-section (6) of section 128B, any representative of the deceased or any Administrator General, shall, as regards any property of the deceased not collected by the Committee and not forming part of the aforesaid surplus, have the same rights and duties as if section 128B had not been enacted.

Saving of rights of representative.

128J. The provisions of sections 128B to 128I shall, so far as they can be made applicable, apply in the case of an officer or warrant officer of the Indian Air Force who, notwithstanding anything contained in the Indian Lunacy Act, 1912, is ascertained in the prescribed manner to be insane, or, who, being on active service, is officially reported missing, as if he had died on the day on which his insanity is so ascertained or, as the case may be, on the day on which he is officially reported missing :

Application of sections 128B to 128I to lunatics, etc.

Provided that in the case of an officer or warrant officer so reported missing no action shall be taken under sub-sections (2) to (5) of section 128B or under section 128C until such time as he is officially presumed to be dead.

128K. When an officer or warrant officer dies or deserts while on active service, the references in the foregoing provisions of this Chapter to the Committee shall be construed as references to the Standing Committee of Adjustment, if any, appointed in this behalf in the manner prescribed.

Appointment of Standing Committee of Adjustment when officers die or desert while on active service.

128L. For the purposes of this Chapter—

(1) a person shall be deemed to be a deserter

Interpretation.

if he without authority has been absent from duty for a period of twenty-one days and has not subsequently surrendered or been apprehended ;

(2) the expression 'service and other debts in camp or quarters' includes money due as air force debts, namely, sums due in respect of, or of any advance in respect of—

(a) quarters ;

(b) mess, band, and other service accounts ;

(c) air force clothing, appointments and equipments, not exceeding a sum equal to six months' pay of the deceased, and having become due within eighteen months before his death ;

(3) 'representation' includes probate and letters of administration with or without the will annexed, and a succession certificate, constituting a person the executor or administrator of the estate of a deceased person or authorising him to receive or realize the assets of a deceased person ;

(4) 'representative' means any person who has taken out representation but does not include an Administrator General."

6. In the Administrator General's Act, 1913,—

Amendment of  
sections 15, 16  
and 17, Act III  
of 1913.

(i) to section 15, after the words and figures "Regimental Debts Act, 1893" the words and figures "the Indian Army Act, 1911 or the Indian Air Force Act, 1932" shall be added ;

VIII of 1911  
XIV of 1932.

(ii) in section 16, after the words and figures "the Regimental Debts Act, 1893" the words and figures "the Indian Army Act, 1911 or the Indian Air Force Act, 1932" shall be inserted ;

VIII of 1911.  
XIV of 1932.

and

(iii) in section 17,—

(a) after the words and figures "the Regimental Debts Act, 1893", at both places where they occur, the words and figures "the Indian Army Act, 1911 or the Indian Air Force Act, 1932" shall be inserted, and

(b) after the words "subject to the Army Act or the Air Force Act" the words and figures "or of an Indian commissioned officer subject to the Indian Army Act, 1911 or of an officer or warrant officer of the Indian Air Force subject to the Indian Air Force Act, 1932" shall be inserted.

VIII of 1911.  
XIV of 1932.

## STATEMENT OF OBJECTS AND REASONS

The object of the amending Bill is two-fold :

(a) to ensure the speedy disposal of estates of Indian commissioned officers of the Indian Army and officers and warrant officers of the Royal Indian Air Force ;

(b) to obviate as far as possible the necessity of widows and next-of-kin of such personnel having to apply to more than one court of civil jurisdiction in order to realise assets of an estate which are widely distributed owing to the nomadic existence of army officers.

The intention is that, owing to the increase of Indian commissioned officers in the Indian Army and Royal Indian Air Force, adequate provision should be made to deal with the estates of these persons in the best interests of the beneficiaries. Consequently, a procedure similar to that which has applied to British forces for more than fifty years, with success, is being proposed.

2. Considerable difficulty is being experienced by widows and next-of-kin of Indian commissioned officers and Air Force officers and warrant officers, under the present system, in realising assets of estates of deceased officers and repeated representations have been made to Government by such widows and next-of-kin for assistance in realisation of assets.

3. Under sections 114 and 115 of the Indian Army Act and sections 126 and 127 of the Indian Air Force Act, it is the responsibility of the Commanding Officer to administer and dispose of the moveable property of Indian commissioned officers, etc. With the growing number of Indian commissioned officers, etc., and owing to the fact that these officers are rising to the more senior ranks of the forces, it is considered desirable that a Committee of Adjustment of three brother officers should be appointed to act in place of the Commanding Officer.

4. When the Indian Army Act was passed in 1911 there were no Indian commissioned officers and the provisions were designed primarily for the disposal of estates of Indian other ranks. The same applied to the present provisions of the Indian Air Force Act. The lack of a suitable method for dealing with estates of officers was felt during the last war and an amendment was made by means of the Indian Army (Amendment) Act, 1945 (VII of 1945) and the Indian Air Force (Amendment) Act, 1945 (VIII of 1945) to the two Acts to meet war-time requirements. The present Bill is based on practical experience gained since the last amendment and seeks to codify the powers and responsibilities of Committees of Adjustment.

NEW DELHI ;

G. S. BHALJA.

The 1st November, 1946.

*Notes on Clauses*

*Clause 1.*—Self-explanatory.

*Clauses 2 and 3.*—These clauses amend the Indian Army Act in regard to disposal of estates of personnel who die subject to that Act.

*Clauses 3 and 4.*—These clauses amend the Indian Air Force Act in a similar manner.

*Clause 6* amends the Administrator General's Act.

*Clause 2 (i).*—The word "provisions" is substituted for the word "rules" for clarity, as rules are made under section 113 of the Act and the use of the word "rules" in this section is confusing.

Indian commissioned officers have been excepted as a new procedure is laid down in new sections 116A to 116K being inserted by this Bill.

(ii) Government Savings Banks are obsolete. The new wording enables Commanding Officers to realise bank balances not exceeding Rs. 1,000 in any bank including a Post Office Savings Bank.

(iii) The insertion of these words gives the power to Commanding Officers to realise Post Office Savings Certificates and Defence Savings Certificates. As Indian other ranks are encouraged to buy these certificates under unit arrangements, as a means of saving, it is necessary to give this power to the Commanding Officers to save the next-of-kin the necessity of realising these assets without probably having a proper knowledge of the correct procedure.

(iv) Provisions relating to Indian commissioned officers deleted in view of the new provisions inserted.

(v) The words "subject to the result of any appeal against an order to the principal court of civil jurisdiction in the locality" have been deleted to save any creditor bringing an action against a Commanding Officer should he disagree with the Commanding Officer's decision. This amendment is desirable to obviate dragging Commanding Officers into litigation. This provision is however similar to that affecting British troops.

*Clause 3, section 116.*—This section is similar to the existing section except that, as regards missing persons, presumption of death is the "signal" for taking action under preceding sections instead of after the arbitrary period of one year as at present. The wording of the section has been recast to make the provisions more explicit.

*Section 116A.*—Self-explanatory.

*Section 116B.*—This section authorises a Committee of Adjustment to dispose of the estates of Indian commissioned officers and lays down the procedure to be adopted by them and their powers and responsibilities. The Committee of Adjustment replaces the Commanding Officers in the present enactment. The Committee of Adjustment will be appointed by the Commanding Officer if the officer was serving with a unit or if extra-regimentally employed by the officer in immediate command. The Committee of Adjustment will report to Government in detail at the termination of their administration of the estate.

(1) (a) This is similar to the present section 114 (1) of the Act with a slight modification in that the Committee of Adjustment do not draw the pay due to the deceased but only ascertain the amount. The pay is dealt with by Government in the final disposal of the surplus. This will make for easier administration and accounting.

(1) (b) This provides that the regimental and/or other debts in camp or quarters are paid and protects messes, regimental institutes, etc., from incurring "bad" debts.

(2) Provision for next-of-kin, executor, etc., being allowed to take over the estate should they desire and administer same as if deceased had been an ordinary civilian except that whoever takes over the estate guarantees payment of regimental and/or other debts in camp or quarters. The only differences between this provision and the old provision in section 114 (3) are—

(a) that this extends the provision to a next-of-kin, etc., wherever they may be at the time of death whereas the old provision was limited to those who were present on the spot at time of death;

(b) that under the old procedure if the value of the property in the hands of the Commanding Officer exceeded Rs. 1,000 it was necessary that a succession certificate or other document of title issued by a civil court should be produced before such property could be handed over. This restriction has been removed.

This is now similar to the procedure in similar cases with respect to British forces.

(3), (4) and (9).—These sub-sections empower the Committee of Adjustment to act as administrator of the estate, if the widow, next-of-kin, etc., do not wish to

avail themselves of procedure in (2) above. The widow, next-of-kin, etc., are in variously asked which procedure should be adopted, the implications of both having been explained to them before they make their decision.

(5) and (6).—Self-explanatory. The prescribed person is Government whose responsibilities are laid down in section 116D.

(7) This is similar to the present section 114 (6) and is also the normal practice for British forces.

(8) As for clause 2 (v). The prescribed person has been made the arbitrator in the case of Indian commissioned officers instead of the Committee of Adjustment owing to the likelihood of Indian commissioned officers' estates being more complicated than Indian other ranks.

116C.—This section provides for the handing over of difficult and complicated cases, such as cases where there are two or more claimants appearing to have equal claims and cases where the estate appears to be insolvent and no profit but only trouble would accrue to next-of-kin, etc., if they administered the estate themselves, to the Administrator General for settlement. His charges are restricted to 3% of the gross value of the surplus handed over to him, by this clause.

116D and 116E are self-explanatory and lay down the responsibilities and powers of the prescribed person, viz., Government.

116F.—Self-explanatory and follows the present section 115.

116G is a protective clause covering the Committee of Adjustment and Government and bars actions against them. Provision however is made for right of action against any recipient of the surplus.

116H.—This provides that any surplus of the estate held by Government is not to be considered as being property held at the station in which Government happens to be situated. This means that any succession certificate taken out in any province will be valid for realisation of surpluses held by Government. As no provision is made for realisation of assets of an estate except for payment of regimental and/or other debts in camp and quarters, under the present procedure, widows, next-of-kin, etc., may have to apply for succession certificates in two or three different provinces in order to realise assets located in those provinces. Under the new procedure the Committee of Adjustment will be able to realise these assets at the request of the widow, next-of-kin, etc., and only one succession certificate will be necessary. This will save expenditure on the part of widows, next-of-kin, etc.

116I.—Self-explanatory.

116J.—This is self-explanatory and the remarks applying to section 116 apply to this section.

116K.—A Standing Committee of Adjustment is appointed in times of emergency to relieve units engaged in operations of the responsibility of dealing with estates. This Standing Committee of Adjustment is located at the base and usually forms part of General Headquarters, 2nd Echelon.

Clauses 4 and 5.—These are similar provisions as contained in clauses 2 and 3 and apply the same procedure to officers and warrant officers of the Royal Indian Air Force.

Clause 6.—This amendment to the Administrator General's Act is necessitated by new section 116C of the Indian Army Act and section 128C of the Indian Air Force Act. Provincial Governments have been consulted and agree to the proposed amendment of the Administrator General's Act.

The following \*Bill was introduced in the Legislative Assembly on the 6th November 1946:—

L. A. BILL No. 52 of 1946

*A Bill to establish the Industrial Finance Corporation of India.*

WHEREAS it is expedient to establish an Industrial Finance Corporation for the purpose of making medium and long-term credits more readily available to industrial concerns in British India, particularly in circumstances where normal banking accommodation is inappropriate or recourse to capital issue methods is impracticable;

It is hereby enacted as follows:—

Short title, extent  
and commence-  
ment

1. This Act may be called the Industrial Finance Corporation Act, 1946.

(2) It extends to the whole of British India

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Interpretation

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "Board" means the Board of Directors of the Corporation;

(b) "Corporation" means the Industrial Finance Corporation of India established by this Act;

(c) "industrial concern" means any business engaged in British India in the manufacture or processing of goods or the generation or distribution of electricity;

(d) "prescribed" means proscribed by regulations made under this Act;

(e) "Reserve Bank" means the Reserve Bank of India;

(f) "scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934;

(g) "underwriting" means contracting, with or without conditions, to subscribe for stock, bonds or debentures of any industrial concern with a view to the resale of the whole or any part of the amount thereof.

Establishment  
and incorporation  
of Corporation

3. (1) A Corporation to be called the Industrial Finance Corporation of India shall be established for the purposes of this Act.

(2) The Corporation shall be a body corporate by the name of the Industrial Finance Corporation of India, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire and hold property, both movable and immovable, and shall by the said name sue and be sued.

\*The Governor-General has been pleased to give the previous sanction required by sub-section (2) of section 67 of the Government of India Act, as saved from repeal by paragraph 12 of the Government of India (Commencement and Transitory Provisions) Order, 1936 and the previous sanction required by section 153 of the Government of India Act, 1935, to the introduction in the Legislative Assembly of this Bill.

4. (1) The share capital of the Corporation shall be five crores of rupees divided into two thousands shares of twenty-five thousand rupees each, which shall be fully paid up. Share capital and shareholders

(2) On the commencement of this Act, the Central Government and the Reserve Bank shall each subscribe for four hundred shares of the Corporation.

(3) On application made before such date as may be notified by the Central Government in the official Gazette in this behalf, scheduled banks may subscribe for eight hundred shares, and insurance companies, investment trusts and other like financial institutions for four hundred shares, of the Corporation.

(4) The allotment of shares to applicants under sub-section (3) shall be made by the Board, and—

(a) the eight hundred shares to be allotted to scheduled banks shall be distributed among applicants so far as is practicable in proportion to the amount of deposits held by each applicant according to the latest available returns, and

(b) the four hundred shares to be allotted to insurance companies, investment trusts and other like financial institutions shall be distributed among applicants as the Board thinks fit having regard to the desirability of distributing the shares and voting rights attached thereto as widely as possible.

(5) If any shares referred to in sub-section (3) remain unallotted, they shall be subscribed for by the Central Government and the Reserve Bank in such proportion as may be agreed on between them :

Provided that the Central Government and the Reserve Bank shall, as soon as practicable, dispose of the shares subscribed for by them in pursuance of this sub-section to any scheduled bank, insurance company, investment trust or other like financial institution to which shares of the Corporation may be transferred under sub-section (6).

(6) Shares of the Corporation shall not be transferable except to the Central Government, the Reserve Bank, any scheduled bank, any insurance company, any investment trust or any other like financial institution.

5. The shares of the Corporation shall be guaranteed by the Central Government as to the repayment of principal and the payment of dividend at a rate not exceeding two and a half per cent. per annum. Guarantee by Central Government

6. (1) The general superintendence and direction of the affairs and business of the Corporation shall be entrusted to a Board of Directors which, with the assistance of an Executive Committee and a Managing Director, may exercise all powers and do all acts and things which may be exercised or done by the Corporation. Management

(2) The Executive Committee shall be competent to deal with any matter within the competence of the Board :

Provided that the minutes of every meeting of the Executive Committee shall be laid before the Board at its next following meeting.

(3) The Managing Director—

(a) shall devote his whole time to the affairs of the Corporation ;

(b) shall perform such duties as the Board may, by regulations, entrust or delegate to him ;

(c) shall hold office for four years and shall be eligible for reappointment ;

(d) shall receive such salary and allowances as the Board, with the approval of the Central Government, may determine.

**Board of  
Directors**

7. The Board of Directors shall consist of the following, namely :—

(a) two Directors nominated by the Central Government ;

(b) three Directors nominated by the Central Board of the Reserve Bank ;

(c) three Directors elected in the prescribed manner by the banks who are shareholders of the Corporation ;

(d) two Directors elected in the prescribed manner by the shareholders of the Corporation, other than the Central Government, the Reserve Bank and other banks ;

(e) one Managing Director appointed by the Central Government after consideration of the recommendation—

(i) in the case of the first appointment, of the Central Board of the Reserve Bank ;

(ii) in the case of subsequent appointments, of the Board :

Provided that on the first constitution of the Board the Directors referred to in clauses (c) and (d) shall be nominated by the Central Government to represent the classes of shareholders respectively specified in the said clauses, and Directors nominated under this proviso shall for the purposes of this Act be deemed to be elected Directors.

(2) A Director, other than the Managing Director, shall hold office for four years :

Provided that—

(a) a Director nominated under the proviso to sub-section (1) to represent the shareholders referred to in clause (d) of that sub-section shall hold office for one year ;

(b) a Director nominated under the said proviso to represent the shareholders referred to in clause (c) of the said sub-section shall hold office for two years ;

(c) the Directors first nominated under clause (b) of the said sub-section shall hold office for three years :



Provided further that in no case shall a Director be required to vacate his office until his successor has been nominated or elected, as the case may be :

Provided further that a Director shall be eligible for re-election or renomination.

(3) A casual vacancy in the office of a Director shall be filled by election or nomination, as the case may be, and the Director elected or nominated to fill a casual vacancy shall hold office for the unexpired portion of the term of his predecessor :

Provided that no casual vacancy occurring within three months of the date of the expiry of the normal term of office of a Director need be filled under this sub-section.

(4) Directors, other than the Managing Director and not being servants of the Crown, shall be paid such fees for attending meetings of the Board, and if they are members thereof, of the Executive Committee, as may be prescribed.

(5) No act or proceeding of the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

8. (1) The Chairman of the Board shall be one of the Directors (not being the Managing Director) nominated in this behalf by the Central Government after considering, except in the case of the nomination of the first Chairman, the recommendation of the Board :

Chairman of  
the Board

Provided that the nomination of the Chairman for any year (other than the first year) shall be made only after the vacancies in the office of Directors occurring by efflux of time in that year have been filled by nomination or election, as the case may be.

(2) The Chairman shall hold office for one year or until his successor is nominated :

Provided that a Chairman shall, so long as he remains a Director, be eligible for renomination as Chairman.

9. (1) The Executive Committee shall consist of the Managing Director (who shall be Chairman of the Committee), two Directors elected by the nominated Directors and two Directors elected by the elected Directors.

Executive  
Committee

(2) A Director elected to be a member of the Executive Committee shall hold office as such for the rest of his term of office as Director during which he is so elected

10. (1) Meetings of the Board and of the Executive Committee shall be held at such times and at such places as may be prescribed :

Meetings of  
Board and  
Committee

Provided that until regulations have been made in this behalf such meetings shall be convened by the Reserve Bank.

(2) To constitute a quorum at a meeting of—

(a) the Board, not less than four Directors shall be present, of whom not less than two shall be nominated Directors and at least one an elected Director ;

(b) the Executive Committee, not less than three members shall be present, of whom at least one shall be a nominated Director and one an elected Director.

(3) At a meeting of the Board or of the Executive Committee, each Director or member of the Committee, as the case may be, shall have one vote, and in the event of an equality of votes, the Chairman shall have a second or casting vote.

(4) If for any reason the Chairman is unable to be present at a meeting—

(a) of the Board, a Director (other than the Managing Director) authorised by the Chairman in writing in this behalf shall preside at that meeting ;

(b) of the Executive Committee, a member authorised in writing by the Managing Director shall preside at that meeting.

Offices and agencies

11. The Corporation shall establish offices in Bombay, Calcutta, Delhi and Madras, and may, with the previous sanction of the Central Government, establish offices or agencies in other places in British India.

Deposit Accounts

12. The Corporation may open Deposit Accounts with the Reserve Bank or with any agency of the Reserve Bank other than a Government treasury.

Borrowing powers

13. (1) The Corporation may issue and sell bonds and debentures carrying interest for the purposes of raising its working capital:

Provided that the total amount of bonds and debentures issued and outstanding and of the contingent liabilities of the Corporation in the form of guarantees given by it or underwriting agreements entered into by it shall not at any time exceed four times the amount of the share capital of the Corporation.

(2) Bonds and debentures of the Corporation shall be guaranteed by the Central Government as to the repayment of principal and the payment of interest at a rate not exceeding two and a half per cent. per annum.

Deposits with the Corporation

14. The Corporation may accept deposits from the public repayable after the expiry of a period which shall not be less than ten years from the date of the making of the deposit, and on such other terms as it thinks fit :

Provided that the total amount of such deposits shall not at any time exceed ten crores of rupees.

Business which the Corporation may transact

15. The Corporation shall, subject to the provisions of this Act, be authorised to carry on and transact the following kinds of business, namely :—

(a) guaranteeing of loans raised by industrial concerns in the public market ;

(b) underwriting the issue of stock, bonds or debentures by industrial concerns ;

(c) receiving in consideration of the services mentioned in clauses (a) and (b) such commission as may be agreed upon ;

(d) retaining as part of its assets any stock, bonds or debentures which it may have to take up in fulfilment of its underwriting liabilities, so however that it disposes of the stock, bonds or debentures so acquired as early as practicable and in any case within a period of seven years from the date of such acquisition ;

(e) granting loans or advances to, or subscribing to debentures of, industrial concerns, repayable within a period not exceeding twenty-five years from the date on which they are granted or subscribed to, as the case may be :

Provided that all accommodation given under this clause shall be secured by a sufficient pledge, mortgage, hypothecation or assignment of Government or other securities, stocks, shares or secured debentures, bullion, movable or immovable property or other tangible assets.

16. The Corporation shall not enter into any arrangement under section 15 with a single industrial concern for an amount equivalent in the aggregate to more than ten per cent. of the share capital of the Corporation.

Limit of accommodation

17. In entering into any arrangement under section 15 with an industrial concern, the Corporation may impose such conditions as it may think necessary or expedient for protecting the interests of the Corporation, and securing that the accommodation granted by it is put to the best use by the industrial concern.

Power to impose conditions for accommodation

18. The Corporation shall not—

Prohibited business

(a) accept deposits except as provided by this Act ;

(b) subscribe directly to the shares or stock of any company having limited liability :

Provided that nothing in clause (b) shall affect the right of the Corporation to acquire any shares, bonds or debentures of a company having limited liability in fulfilment of any underwriting agreement entered into by the Corporation.

19. (1) The Corporation may, for the purpose of making loans or advances to industrial concerns requiring to be financed in foreign currency, borrow, with the previous consent of the Central Government, such currency through the International Bank for Reconstruction and Development or otherwise, and may pledge, mortgage, hypothecate or assign to the said Bank or other foreign lender all or any part of the security taken by the Corporation from the industrial concerns for the loans or advances granted in foreign currency.

Loans in foreign currency

(2) All loans and advances made to industrial concerns in foreign currency shall be repaid in the currency in which they are made.

Rights of  
Corporation  
in case of  
default

20. (1) Where any industrial concern under obligation to the Corporation makes any default in repayment or fails otherwise to comply with the terms of its agreement with the Corporation, the Corporation may take all necessary steps to protect its interests, including the sale and realisation of the security, pledged, mortgaged, hypothecated or assigned to the Corporation.

(2) Any transfer of property made by the Corporation in exercise of its powers of sale and realisation under sub-section (1) shall vest in the transferee all rights in or to the property transferred as if the sale had been made by the owner of the property.

(3) The Corporation shall have the same rights and powers with respect to goods manufactured or produced from goods forming part of security held by it, as it had with respect to the original goods.

Power to  
call for  
repayment  
within  
agreed  
period

21. Notwithstanding any agreement to the contrary, the Corporation may by notice require any industrial concern, to which it has granted any loan or advance forthwith to discharge in full its liabilities to the Corporation—

(a) if it appears to the Board that false or misleading information in any material particular was given in the application for the loan or advance ;

(b) if the industrial concern has failed to comply with the terms of its contract with the Corporation in the matter of the loan or advance ;

(c) if insolvency proceedings or proceedings for liquidation are commenced in respect of the industrial concern ;

(d) if property, pledged, mortgaged, hypothecated or assigned to the Corporation as security for the loan or advance is not adequately insured and kept insured by the industrial concern ;

(e) if property, pledged, mortgaged, hypothecated or assigned to the Corporation as security for the loan or advance depreciates in value, in the opinion of the Board, by more than twenty per cent., and further security to the satisfaction of the Board is not given ;

(f) if, without the permission of the Board, machinery or other equipment is removed from the premises of the industrial concern without being replaced ;

(g) if for any other reason it is necessary in the opinion of the Board to protect the interests of the Corporation.

Special  
provisions  
for enforce-  
ment of  
claims by  
the Corpora-  
tion

22. (1) If within seven days from the receipt of a notice under section 21 an industrial concern has not complied therewith in full, any officer of the Corporation generally or specially authorised by the Board in this behalf may apply to the District Judge within the local limits of whose jurisdiction the industrial concern carries on the whole or a substantial part of its business for attachment of the property of the industrial concern.

(2) An application under sub-section (1) shall state the nature and extent of the industrial concern's liabilities to the Corporation, the grounds on which it is made and such other particulars as may be prescribed.

(3) Upon receipt of an application under sub-section (1), the District Judge shall pass without delay an *ad interim* order attaching so much of the property of the industrial concern as would on being sold realise in his estimation an amount equivalent in value to the outstanding liabilities of the industrial concern to the Corporation together with the costs of the proceedings under this section :

Provided that before passing such order the District Judge may, if he thinks fit, examine the officer making the application.

(4) At the same time as he passes an order under sub-section (3), the District Judge shall issue to the industrial concern a notice accompanied by copies of the order, the application and of the evidence, if any, recorded by him, calling upon it to show cause on a date to be specified in the notice why the order of attachment should not be made absolute and the property attached sold.

(5) If no cause is shown on or before the date specified in the notice under sub-section (4), the District Judge shall forthwith pass an order making absolute the order of attachment and directing the sale of the attached property.

(6) If cause is shown as aforesaid the District Judge shall proceed to investigate the claim of the Corporation, and in so doing, as regards the examination of the parties and in all other respects he shall, subject to the provisions of this section, follow the procedure and exercise all the powers of a Court in hearing a suit under the Code of Civil Procedure, 1908.

✓ of 1906.

(7) After investigation under sub-section (6), the District Judge shall pass an order either—

(a) confirming the order of attachment and directing the sale of the attached property, or

(b) varying the order of attachment so as to release a portion of the property from attachment and directing the sale of the remainder of the attached property, or

(c) releasing the property from attachment, if he is satisfied that it is not necessary in the interests of the Corporation :

Provided that in making any order under clause (c), the District Judge may make such further orders as he thinks necessary to protect the interests of the Corporation, and may apportion the costs of the proceedings in such manner as he thinks fit;

Provided further that unless the Corporation intimates to the District Judge that it will not appeal against any order releasing any property from attachment, such order shall not be given effect to until the expiry of the period fixed under sub-section (9) within which an appeal may be preferred, or if an appeal is preferred, unless the High Court otherwise directs, until the appeal is disposed of.

(8) An order of attachment or sale of property under this section shall be carried into effect as far as may be practicable in the manner provided in the Code of Civil Procedure, 1908, for the attachment or sale of property in execution of a decree, as if the Corporation were the decree-holder.

V of 1908

(9) Any party aggrieved by an order under sub-section (5) or sub-section (7) may, within thirty days from the date of the order, appeal to the High Court, and upon such appeal, the High Court may, after giving the parties an opportunity of being heard, pass such orders as it thinks proper.

(10) Nothing in this section shall be construed, where insolvency proceedings or proceedings for liquidation in respect of the industrial concern have commenced before an application is made under sub-section (3), as giving to the Corporation any preference over the other creditors of the industrial concern not conferred on it by any other law.

(11) The functions of a District Judge under this section shall, in a Presidency-town, be exercised by the Chief Judge of the Small Cause Court.

23. The Corporation shall be deemed to be a bank for the purposes of the Banker's Books Evidence Act, 1891.

24. (1) The Corporation shall establish a reserve fund.

(2) After making provision for bad and doubtful debts, depreciation of assets and all other matters which are usually provided for by bankers, the Corporation may out of its net annual profits declare a dividend :

Provided that for so long as the reserve fund is less than the share capital of the Corporation and until there has been repaid to the Central Government such sums, if any, as that Government may have paid under the guarantee given in pursuance of section 5 or under any guarantee given in pursuance of sub-section (2) of section 13, such dividend shall not be at a rate exceeding two and a half per cent. per annum :

Provided further that under no circumstances shall any such dividend exceed the rate of five per cent. per annum and if in respect of any financial year after the reserve fund becomes equal to the share capital of the Corporation there is after declaring a dividend at that rate any surplus in the net profits, such surplus shall be paid to the Central Government.

Act XVIII  
of 1891 to  
apply to the  
books of the  
Corporation  
Disposal of  
profits

25. (1) A general meeting (hereafter in this Act referred to as the annual general meeting) shall be held annually at a place in British India where there is an office of the Corporation within two months from the date on which the annual accounts of the Corporation are closed; and a general meeting may be convened by the Board at any other time.

General  
meetings

(2) The shareholders present at the annual general meeting shall be entitled to discuss the annual accounts, the report of the Board on the working of the Corporation throughout the year and the auditors' report on the annual balance-sheet and accounts.

26. (1) The affairs of the Corporation shall be audited by not less than two auditors qualified under section 144 of the Indian Companies Act, 1913, to act as auditors of companies, who shall be elected, and whose remuneration shall be fixed, at the annual general meeting:

Audit

VII of 1913

Provided that the first auditors may be appointed by the Board before the first annual general meeting, and if so appointed, shall hold office only until that meeting.

(2) All auditors elected under this section shall severally be, and continue to act as, auditors until the first annual general meeting after their respective elections:

Provided that any casual vacancy in the office of any auditor elected under this section may be filled by the Board.

(3) Every auditor shall be supplied with a copy of the annual balance-sheet of the Corporation, and it shall be his duty to examine it together with the accounts and vouchers relating thereto; and every auditor shall have a list delivered to him of all books kept by the Corporation, and shall at all reasonable times have access to the books, accounts and other documents of the Corporation, and may in relation to such accounts examine any Director or officer of the Corporation.

(4) The auditors shall make a report to the shareholders upon the annual balance-sheet and accounts, and in every such report they shall state whether in their opinion the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of that state of the affairs of the Corporation, and in case they have called for any explanation or information from the Board whether it has been given and whether it is satisfactory.

(5) The Central Government may at any time issue directions to the auditors requiring them to report to it upon the adequacy of measures taken by the Corporation for the protection of its shareholders and creditors or upon the sufficiency of their procedure in auditing the affairs of the Corporation, and may at any time enlarge or extend the scope of the audit or direct that a different procedure in audit be adopted or direct that any other examination be made by the auditors if in its opinion the public interest requires.

**Returns**

27. (1) The Corporation shall furnish a statement in the prescribed form of its assets and liabilities as at the close of business on the last Friday of each month, or if that day is a public holiday under the Negotiable Instruments Act, 1881, as at the close of business on the preceding working day, to all shareholders within ten days from the date to which the statement relates. XXVI of 1881

(2) The Corporation shall furnish in the prescribed form to the Central Government and to the Reserve Bank at least once in every year or as frequently as the Central Government or the Reserve Bank may require a classification of its loans and investments and of loans guaranteed by it and underwriting agreements entered into by it.

(3) The Corporation shall furnish to the Central Government and the Reserve Bank within two months of the close of the financial year a statement in the prescribed form of its assets and liabilities as at the close of that year together with a profit and loss account for the year and a report of the working of the Corporation during the year, and copies of the said statement, account and report shall be published in the Gazette of India and shall be laid before both Chambers of the Central Legislature.

**Liquidation of Corporation**

28. No provision of law relating to insolvency or to the winding up of companies or corporations shall apply to the Corporation, and the Corporation shall not be placed in liquidation save by order of the Central Government and in such manner as it may direct.

**Indemnity of Directors**

29. (1) Every Director shall be indemnified by the Corporation against all losses and expenses incurred by him in or about the discharge of his duties, except such as happen from his own wilful act or default.

(2) A Director shall not be responsible for any other Director or for any officer or servant of the Corporation or for any loss or expense happening to the Corporation by the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Corporation, or by the wrongful act of any person under obligation to the Corporation, or by anything done in the execution of the duties of his office or in relation thereto, or otherwise than for his own wilful act or default.

**Declaration of fidelity and secrecy**

30. Every Director, auditor, officer or servant of the Corporation shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Schedule.

**Provisions relating to income-tax and super-tax**

31. (1) Notwithstanding anything contained in the Indian Income-tax Act, 1922, or in any other enactment for the time being in force relating to income-tax or super-tax, the Corporation shall not be liable to pay income-tax or super-tax on any of its income, profits or gains: XI of 1922

Provided that nothing in this sub-section shall affect the liability of any shareholder in respect of income-tax or super-tax.



**XI of 19:2** (2) For the purposes of section 18 of the Indian Income-tax Act, 1922, and of any other relevant provision of that Act relating to the levy and refund of income-tax, any dividend paid by the Corporation shall be deemed to be "Interest on Securities", and any payment made out of the accumulated profits on the liquidation of the Corporation shall be deemed to be a dividend paid by the Corporation.

32. (1) Whoever in any bill of lading, warehouse receipt or other instrument given to the Corporation whereby security is given or is purported to be given to the Corporation for any accommodation granted by it under this Act wilfully makes any false statement, or knowingly permits any false statement to be made, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees or with both.

Offences

(2) Whoever without the consent in writing of the Corporation uses the name of the Corporation in any prospectus or advertisement shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

33. (1) The Board may, after consultation with the Reserve Bank and with the previous sanction of the Central Government, make regulations not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

Power of Board to make regulations

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the holding and conduct of elections under this Act, including the final decision of doubts or disputes regarding the validity of elections ;

(b) the manner in which and the conditions subject to which the first allotment of shares of the Corporation shall be made ;

(c) the manner in which and the conditions subject to which the shares of the Corporation may be held and transferred, and generally all matters relating to the rights and duties of shareholders ;

(d) the manner in which general meetings shall be convened, the procedure to be followed thereat and the manner in which voting rights may be exercised ;

(e) the calling of meetings of the Board and of the Executive Committee, fees for attending meetings thereof and the conduct of business thereat ;

(f) the manner and terms of issue and redemption of bonds and debentures by the Corporation ;

(g) the conditions which the Corporation may impose in granting loans or advances ;

- (h) the manner and conditions subject to which the Corporation may borrow in foreign currency from foreign lenders ;
  - (i) the forms of returns and statements required under this Act ;
  - (j) the duties and conduct of officers and servants and agents of the Corporation ;
  - (k) any other matter which is to be or may be prescribed ;
  - (l) generally, the efficient conduct of the affairs of the Corporation.
- (3) All regulations made under this section shall be published in the Gazette of India and shall come into force on such publication.

THE SCHEDULE

(See section 30)

*Declaration of Fidelity and Secrecy*

I, ....., do declare that I will faithfully, truly and to the best of my judgment, skill and ability, execute and perform the duties required of me as a Director, officer, employee or auditor (as the case may be) of the Industrial Finance Corporation of India and which properly relate to any office or position in the said Corporation held by me.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Corporation nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Corporation and relating to the business of the Corporation.

Signature.....

Signed before me

Signature.....

Designation.....

Date.....

## STATEMENT OF OBJECTS AND REASONS

The provision of credit for medium and long-term capital requirements of industry falls outside the normal activities of commercial banks and, in certain cases the usual methods of capital issue are not wholly practicable or suitable. In order to fill this lacuna, Industrial Finance Corporations, to provide medium and long-term credit for facilitating post-war rehabilitation and development, have been established in several countries. This Bill seeks to establish a similar Corporation in India for the same purpose.

2. The main features of the Bill are as follows :—

(i) The Corporation will have a share capital of five crores of rupees. The shares will be held only by the Central Government, the Reserve Bank, scheduled banks and insurance companies, investment trusts and other like financial institutions. There will be no private holding of shares.

(ii) Shares of the Corporation will be guaranteed by the Central Government as to the repayment of principal and the payment of dividend not exceeding  $2\frac{1}{2}\%$  per annum.

(iii) The Corporation will be authorised to issue bonds and debentures for amounts which, together with the contingent liabilities of the Corporation, shall not exceed four times the amount of the paid up share capital of the Corporation. The Central Government will guarantee such bonds and debentures as to the repayment of principal and the payment of interest not exceeding  $2\frac{1}{2}\%$  per annum.

(iv) The Corporation may accept deposits from the public repayable after a period of not less than ten years and on such other terms as the Corporation may think fit.

(v) The Corporation will be authorised to make long-term loans to industrial undertakings, repayable within a period not exceeding twenty-five years and to underwrite the issue of shares and debentures subject to the provision that the Corporation will be required to dispose of any shares or debentures acquired by it in fulfilment of its underwriting liability within a period of seven years.

(vi) The Corporation will not be liable to pay income-tax or super-tax on its income and profits, but the dividend paid to shareholders will be liable to these taxes.

(vii) The surplus profits of the Corporation after payment of a dividend not exceeding 5% and after building up a Reserve Fund of five crores of rupees, will be payable to the Central Government.

(viii) The Corporation will have special privileges in the matter of the enforcement of its claims against borrowers.

LIAQUAT ALI KHAN.

NEW DELHI ;

*The 1st November, 1946.*

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*Notes on Clauses*

*Clause 4.*—Individual shareholders are unnecessary in this type of institution.

*Clause 5.*—Government guarantee is necessary in order to secure participation of the proper type of banks and other institutions and also to ensure that the Corporation's operations are not restricted only to industries likely to yield quick profits but are guided by broad national interests.

*Clause 6.*—Management of the Corporation is framed on the lines of that of the Reserve Bank.

*Clause 7 (1).*—The constitution of the Board is designed to secure the intimate knowledge of industry and wide business experience of banks and other financial institutions and due control by the Government and the Reserve Bank in the national interest.

*Clause 7 (2).*—The rotational retirement of certain directors every year is designed to ensure continuity in the policy of the Corporation.

*Clause 13 (2).*—Bonds and debentures of the Corporation will be guaranteed by the Central Government for the same reasons as in the case of the Corporation's share capital.

*Clause 14.*—It is undesirable to accept short-term deposits when loans are given for medium and long terms.

*Clauses 15 and 18.*—Business of the Corporation is confined to guaranteeing loans, underwriting issues and granting loans for a maximum period of 25 years. The object of the Corporation is to assist industrial concerns in obtaining capital and not to act as a holding company or investment trust.

*Clause 16.*—It is necessary that the commitments of the Corporation should be sufficiently spread.

*Clause 19.*—Under Article III, section 4 of the Articles of Agreement of the International Bank for Reconstruction and Development the Bank will require the Government of India or the Reserve Bank to guarantee the interest and principal of any loan granted to the Corporation. It is also necessary to ensure that commitments in foreign currencies are not entered into without the consideration or likelihood of availability of such foreign currencies for repayment. It is therefore necessary to prescribe that the Corporation should obtain the previous sanction of the Central Government before borrowing foreign currency from the International Bank or other sources.

*Clauses 20 and 21* are intended to enable timely action by the Corporation to prevent losses.

*Clause 22.*—Special privileges for the enforcement of claims against borrowers are necessary for the Corporation to enable it to make quick realisation in the case of apprehended losses.

*Clause 24.*—Dividend is limited to 2½% until a Reserve fund of five crores of rupees is built up and all payments made by Government under the interest guaranteed are repaid. As in the case of the Reserve Bank all profits after paying a maximum dividend of 5% are made payable to Government.

*Clause 31.*—The Corporation is exempted from income-tax and super-tax to enable it to build up adequate reserves as early as possible and at the same time advance money at reasonable rates. Recovery of taxes from the Corporation may also involve the making good of the guarantee by Government for minimum dividend and is unnecessary in view of the fact that surplus profits after payment of a maximum dividend of 5% accrue to Government. The dividend paid to shareholders is not however exempted from taxes.

The remaining clauses are self-explanatory.

The following \*Bill was introduced in the Legislative Assembly on the 6th November 1946:—

L. A. BILL No. 53 OF 1946

*A Bill to regulate certain payments, dealings in foreign exchange and securities and the import and export of currency and bullion.*

WHEREAS it is expedient in the economic and financial interests of India to provide for the regulation of certain payments, dealings in foreign exchange and securities and the import and export of currency and bullion ;

It is hereby enacted as follows:—

1. (1) This Act may be called the Foreign Exchange Regulation Act, 1946. Short title,  
extent and  
commence-  
ment

(2) It extends to the whole of British India, and applies also to British subjects and servants of the Crown in any part of India, and to British subjects who are domiciled in any part of India wherever they may be.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. In this Act, unless there is anything repugnant in the subject or context,— Interpreta-  
tion

(a) "authorised dealer" means a person for the time being authorised under section 3 to deal in foreign exchange ;

(b) "currency" includes all coins, currency notes, bank notes, postal notes, money orders, cheques, drafts, traveller's cheques, letters of credit, bills of exchange and promissory notes ;

(c) "foreign currency" means any currency other than Indian currency ;

(d) "foreign exchange" means foreign currency and includes all deposits, credits and balances payable in any foreign currency, and any drafts, travellers' cheques, letters of credit and bills of exchange, expressed or drawn in Indian currency but payable in any foreign currency ;

(e) "foreign security" means any security issued elsewhere than in India, and any security the principal of or interest on which is payable in any foreign currency or elsewhere than in India ;

(f) "gold" means gold in the form of coin, whether legal tender or not, or in the form of bullion or ingot, whether refined or not ;

(g) "Indian currency" means currency which is expressed or drawn in Indian rupees ;

(h) "owner", in relation to any security, includes any person who has power to sell or transfer the security, or who has the custody thereof or who receives, whether on his own behalf or on behalf of any other person,

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\* The Governor-General has been pleased to give the previous sanction required by sub-section (2) of section 87 of the Government of India Act, as saved from repeal by paragraph 12 of the Government of India (Commencement and Transitory Provisions) Order, 1936, and the previous sanction required by section 153 of the Government of India Act, 1935, to the introduction in the Legislative Assembly of this Bill.

dividends or interest thereon, and who has any interest therein, and in a case where any security is held on any trust or dividends or interest thereon are paid into a trust fund, also includes any trustee or any person entitled to enforce the performance of the trust or to revoke or vary, with or without the consent of any other person, the trust or any terms thereof, or to control the investment of the trust moneys;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "Reserve Bank" means the Reserve Bank of India;

(k) "security" means shares, stocks, bonds, debentures, debenture stock and Government securities, as defined in the Indian Securities Act, 1920, X of 1920 deposit receipts in respect of deposits of securities, and units or sub-units of unit trusts, but does not include bills of exchange or promissory notes other than Government promissory notes;

(l) "silver" means silver bullion or ingot, silver sheets and plates which have undergone no process of manufacture subsequent to rolling and uncurrent silver coin which is not legal tender in India or elsewhere;

(m) "transfer" includes, in relation to any security, transfer by way of loan or security.

Authorised  
dealers in  
foreign  
exchange

3. (1) The Reserve Bank may, on application made to it in this behalf, authorise any person to deal in foreign exchange.

(2) An authorisation under this section—

(i) may authorise dealings in all foreign currencies or may be restricted to authorising dealings in specified foreign currencies only;

(ii) may authorise transactions of all descriptions in foreign currencies or may be restricted to authorising specified transactions only;

(iii) may be granted to be effective for a specified period, and may in all cases be revoked for reasons appearing to it sufficient by the Reserve Bank.

(3) An authorised dealer shall in all his dealings in foreign exchange comply with such general or special directions or instructions as the Reserve Bank may from time to time think fit to give, and, except with the previous permission of the Reserve Bank, an authorised dealer shall not engage in any transaction involving any foreign exchange which is not in conformity with the terms of his authorisation under this section.

(4) An authorised dealer shall, before undertaking any transaction in foreign exchange on behalf of any person, require that person to make such declarations and to give such information as will reasonably satisfy him that the transaction will not involve, and is not designed for the purpose of, any contravention or evasion of the provisions of this Act or of any rules, directions or orders made thereunder, and where the said

person refuses to comply with any such requirement or makes only unsatisfactory compliance therewith, the authorised dealer shall refuse to undertake the transaction and shall, if he has reason to believe that any such contravention or evasion as aforesaid is contemplated by the person, report the matter to the Reserve Bank.

4. (1) Except with the previous general or special permission of the Reserve Bank, no person other than an authorised dealer shall in British India, and no person resident in British India other than an authorised dealer shall outside India, buy or borrow from, or sell or lend to, or exchange with, any person not being an authorised dealer, any foreign exchange. Restrictions on dealing in foreign exchange

(2) Except with the previous permission of the Reserve Bank, no person whether an authorised dealer or otherwise, shall enter into any transaction which provides for the conversion of Indian currency into foreign currency or a foreign currency into Indian currency at rates of exchange other than the rates for the time being authorised by the Reserve Bank.

(3) Where any foreign exchange is acquired by any person other than an authorised dealer for any particular purpose, or where any person has been permitted conditionally to acquire foreign exchange, the said person shall not use the foreign exchange so acquired otherwise than for that purpose or, as the case may be, fail to comply with any condition to which the permission granted to him is subject, and where any foreign exchange so acquired cannot be so used or, as the case may be, the conditions cannot be complied with, the said person shall without delay sell the foreign exchange to an authorised dealer.

(4) Nothing in this section shall be deemed to prevent a person from buying from any post office, in accordance with any law or rules made thereunder for the time being in force, any foreign exchange in the form of postal orders or money orders.

5. (1) Save as may be provided in and in accordance with any general or special exemption from the provisions of this sub-section which may be granted conditionally or unconditionally by the Reserve Bank, no person in, or resident in, British India shall— Restrictions on payments

(a) make any payment to or for the credit of any person resident outside India ;

(b) draw, issue or negotiate any bill of exchange or promissory note or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment in India is created or transferred in favour of any person resident outside India ;

(c) make any payment to or for the credit of any person resident in India by order or on behalf of any person resident outside India ;

(d) place any sum to the credit of any person resident outside India ;

(e) make any payment to or for the credit of any person resident in India as consideration for or in association with—

(i) the receipt by any person of a payment or the acquisition by any person of property outside India ;

(ii) the creation or transfer in favour of any person of a right whether actual or contingent to receive a payment or acquire property outside India ;

(f) draw, issue or negotiate any bill of exchange or promissory note, transfer any security or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment in India is credited or transferred in favour of a person resident in India as consideration for or in association with any matter referred to in clause (e).

(2) Nothing in sub-section (1) shall render unlawful the making of any payment already authorised, either with foreign exchange obtained from an authorised dealer under section 4 or with foreign exchange retained by a person in pursuance of an authorisation granted by the Reserve Bank.

(3) Nothing in this section shall restrict the doing by any person of anything within the scope of any authorisation or exemption granted under this Act.

(4) For the purposes of this section, "security" also includes coupons or warrants representing dividends or interest and life or endowment insurance policies.

#### **Blocked accounts**

6. (1) Where an exemption from the provisions of section 5 is granted by the Reserve Bank in respect of payment of any sum to any person resident outside India and the exemption is made subject to the condition that the payment is made to a blocked account—

(a) the payment shall be made to a blocked account in the name of that person in such manner as the Reserve Bank may by general or special order direct ; and

(b) the crediting of that sum to that account shall, to the extent of the sum credited, be a good discharge to the person making the payment.

(2) No sum standing at the credit of a blocked account shall be drawn on except in accordance with any general or special permission which may be granted conditionally or otherwise by the Reserve Bank.

(3) In this section "blocked account" means an account opened as a blocked account at an office or branch in British India of a bank authorised in this behalf by the Reserve Bank, or an account blocked, whether before or after the commencement of this Act, by order of the Reserve Bank.

#### **Special accounts**

7 (1) Where in the opinion of the Central Government it is necessary or expedient to regulate payments due to persons resident in any territory, the Central Government may, by notification in the official Gazette, direct that such payments or any class of such payments shall be made only into



an account (hereinafter referred to as a special account) to be maintained for the purpose by the Reserve Bank or an authorised dealer specially authorised by the Reserve Bank in this behalf.

(2) The credit of a sum to a special account shall, to the extent of the sum credited, be a good discharge to the person making the payment:

Provided that where the liability of the person making the payment is to make the payment in foreign currency, the extent of the discharge shall be ascertained by converting the amount paid into that currency at such rate of exchange as is for the time being fixed or authorised by the Reserve Bank.

(3) The sum standing to the credit of any special account shall from time to time be applied—

(a) where any agreement is entered into between the Central Government and the Government of the territory to which the aforesaid notification relates for the regulation of payments between persons resident in British India and in that territory, in such manner as the Reserve Bank, having regard to the provisions of such agreement, may direct, or

(b) where no such agreement is entered into, for the purpose of paying wholly or partly, and in such order of preference and at such times as the Central Government may direct, debts due from the persons resident in the said territory to persons resident in British India or in such other territories as the Central Government may by order specify in this behalf.

8. (1) The Central Government may, by notification in the official Gazette, order that, subject to such exemptions, if any, as may be contained in the notification, no person shall, except with the general or special permission of the Reserve Bank and on payment of the fee, if any, prescribed bring or send into British India any gold or silver or any currency notes or bank notes or coin whether Indian or foreign.

Restrictions  
on import  
and export  
of certain  
currency and  
bullion

(2) No person shall, except with the general or special permission of the Reserve Bank or the written permission of a person authorised in this behalf by the Reserve Bank, take or send out of British India any gold or Indian currency notes, bank notes or coin or foreign exchange other than foreign exchange obtained from an authorised dealer.

VIII of 1878 (3) The restrictions imposed by sub-sections (1) and (2) shall be deemed to have been imposed under section 19 of the Sea Customs Act, 1878, without prejudice to the provisions of section 23 of this Act, and all the provisions of that Act shall have effect accordingly.

9. The Central Government may, by notification in the official Gazette, order every person in, or resident in, British India—

Acquisition  
by Central  
Government  
of foreign  
exchange

(a) who owns such foreign exchange as may be specified in the notification, to offer it for sale, at such price as the Central Government may IX,

to the Reserve Bank on behalf of the Central Government or to such person as the Reserve Bank may authorise for the purpose ;

(b) who is entitled to assign any right to receive such foreign exchange as may be specified in the notification, to transfer that right to the Reserve Bank on behalf of the Central Government on payment of such consideration therefor as the Central Government may fix :

Provided that the Central Government may by the said notification or another order exempt any persons or class of persons from the operation of such order :

Provided further that nothing in this section shall apply to any foreign exchange acquired by a person from an authorised dealer and retained by him with the permission of the Reserve Bank for any purpose.

Duty of persons entitled to receive foreign exchange, etc.

10. (1) No person who has a right to receive any foreign exchange or to receive from a person resident outside India a payment in rupees shall, except with the permission of the Reserve Bank, do or refrain from doing any act with intent to secure—

(a) that the receipt by him of the whole or part of that foreign exchange or payment is delayed, or

(b) that the foreign exchange or payment ceases in whole or in part to be receivable by him.

(2) Where a person has failed to comply with the requirements of sub-section (1) in relation to any foreign exchange or payment in rupees, the Reserve Bank may give to him such directions as appear to be expedient for the purpose of securing the receipt of the foreign exchange or payment as the case may be.

Power to regulate the uses, etc., of imported gold and silver

11. The Central Government may, by notification in the official Gazette, impose such conditions as it thinks necessary or expedient on the use or disposal of or dealings in gold and silver imported into British India.

Payment for exported goods

12. (1) The Central Government may, by notification in the official Gazette, prohibit the export of any goods or class of goods specified in the notification from British India directly or indirectly to any place so specified unless a declaration supported by such evidence as may be prescribed or so specified, is furnished by the exporter to the prescribed authority that the amount representing the full export value of the goods has been, or will within the prescribed period be paid in the prescribed manner.]

(2) Where any export of goods has been made to which a notification under sub-section (1) applies, no person entitled to sell, or procure the sale of, the said goods shall, except with the permission of the

Reserve Bank, do or refrain from doing any act with intent to secure that —

(a) the sale of the goods is delayed to an extent which is unreasonable having regard to the ordinary course of trade, or

(b) payment for the goods is made otherwise than in the prescribed manner or does not represent the full amount payable by the foreign buyer in respect of the goods, subject to such deductions, if any, as may be allowed by the Reserve Bank, or is delayed to such extent as aforesaid :

Provided that no proceedings in respect of any contravention of this sub-section shall be instituted unless the prescribed period has expired and payment for the goods representing the full amount as aforesaid has not been made in the prescribed manner.

(3) Where in relation to any such goods the said period has expired and the goods have not been sold and payment therefor has not been made as aforesaid, the Reserve Bank may give to any person entitled to sell the goods or to procure the sale thereof, such directions as appear to it to be expedient for the purpose of securing the sale of the goods and payment therefor as aforesaid, and without prejudice to the generality of the foregoing provision, may direct that the goods shall be assigned to the Central Government or to a person specified in the directions.

(4) Where any goods are assigned in accordance with sub-section (3), the Central Government shall pay to the person assigning them such sum in consideration of the net sum recovered by or on behalf of the Central Government in respect of the goods as may be determined by the Central Government.

(5) Where in relation to any such goods the value as stated in the invoice is less than the amount which in the opinion of the Reserve Bank represents the full export value of those goods, the Reserve Bank may issue an order requiring the person holding the shipping documents to retain possession thereof until such time as the exporter of the goods has made arrangements for the Reserve Bank or a person authorised by the Reserve Bank to receive on behalf of the exporter payment in the prescribed manner of an amount which represents in the opinion of the Reserve Bank the full export value of the goods.

(6) For the purpose of ensuring compliance with the provisions of this section and any orders or directions made thereunder, the Reserve Bank may require any person making any export of goods to which a notification under sub-section (1) applies to exhibit contracts with his foreign buyer or other evidence to show that the full amount payable by the said buyer in respect of the goods has been, or will within the prescribed period be, paid in the prescribed manner.

Regulation  
of export  
and transfer  
of securities

13. (1) No person shall, except with the general or special permission of the Reserve Bank,—

(a) take or send any security to any place outside India ;

(b) transfer any security or create or transfer any interest in a security to or in favour of a person resident outside India ;

(c) transfer any security from a register in British India to a register outside India or do any act which is calculated to secure, or forms part of a series of acts which together are calculated to secure, the substitution for any security which is either in, or registered in, British India, of any security which is either outside or registered outside India ;

(d) issue, whether in British India or elsewhere, any security which is registered or to be registered in British India, to a person, resident outside India.

(2) Where the holder of a security is a nominee, neither he nor any person through whose agency the exercise of all or any of the holder's rights in respect of the security is controlled shall, except with the permission of the Reserve Bank, do any act whereby he recognises or gives effect to the substitution of another person as the person from whom he directly receives instructions, unless both the person previously instructing him and the person substituted for that person were, immediately before the substitution, resident in India.

(3) The Reserve Bank may, for the purpose of securing that the provisions of this section are not evaded, require that the person transferring any security and the person to whom such security is transferred shall subscribe to a declaration that the transferee is not resident outside India.

(4) Notwithstanding anything contained in any other law, no person shall, except with the permission of the Reserve Bank,—

(a) enter any transfer of securities in any register or book in which securities are registered or inscribed if he has any ground for suspecting that the transfer involves any contravention of the provisions of this section, or

(b) enter in any such register or book, in respect of any security, whether in connection with the issue or transfer of the security or otherwise, an address outside India except by way of substitution for any such address in the same country or for the purpose of any transaction for which permission has been granted under this section with knowledge that it involves entry of the said address.

(5) For the purposes of this section,—

(a) “holder” in relation to a bearer security means the person having physical custody of the security; provided that, where a bearer security is deposited with any person in a locked or sealed receptacle from which the person with whom it is deposited is not entitled to remove it without the authority of some other person, that other person shall be deemed to be the holder of the security;

(b) “nominee” means a holder of any security (including a bearer security) or any coupon representing dividends or interest who, as respects the exercise of any rights in respect of the security or coupon, is not entitled to exercise those rights except in accordance with instructions given by some other person, and a person holding a security or coupon as a nominee shall be deemed to act as nominee for the person who is entitled to give instructions either directly or through the agency of one or more persons, as to the exercise by the holder of the security or coupon of any rights in respect thereof and is not, in so doing, himself under a duty to comply with instructions given by some other person;

(c) “security” also includes coupons or warrants representing dividends or interest, and life or endowment insurance policies.

14. (1) The Central Government may, by notification in the official Gazette, order every person by whom or on whose behalf a security or document of title to a security specified in the order is held in British India to cause the said security or document of title to be kept in the custody of an authorised depository named in the order: Custody of securities

Provided that the Reserve Bank may by order in writing permit any such security to be withdrawn from the custody of the authorised depository subject to such conditions as may be specified in the order.

(2) No authorised depository may part with any security covered by an order under sub-section (1) without the permission of the Reserve Bank except to, or to the order of, another authorised depository.

(3) Except with the permission of the Reserve Bank, no authorised depository shall—

(a) accept or part with any security covered by an order under sub-section (1) whereby the security is transferred into the name of a person resident outside India, or

(b) do any act whereby he recognises or gives effect to the substitution of another person as the person from whom he directly receives instructions unless the person previously instructing him and the person substituted for that person were immediately before the substitution resident in India.

(4) Except with the permission of the Reserve Bank, no person shall buy, sell or transfer any security,

or document of title to a security, covered by an order under sub-section (1) unless such security or document of title has been deposited in accordance with the order.

(5) Except with the permission of the Reserve Bank, no capital moneys, interest or dividends in respect of any security covered by an order issued under sub-section (1) shall be paid in British India except to or to the order of the authorised depository having the custody of the security.

(6) For the purposes of this section,—

(a) “authorised depository” means a person notified by the Central Government to be entitled to accept the custody of securities and documents of title to securities, and

(b) “security” shall include coupons.

**Restrictions on  
issue of bearer  
securities**

15. The Central Government may, by notification in the official Gazette, order that except with the permission of the Reserve Bank no person shall in British India issue any bearer security or coupon or so alter any document that it becomes a bearer security or coupon.

**Acquisition by  
Central Govern-  
ment of foreign  
securities**

16. (1) Subject to any exemptions that may be contained in the notification, the Central Government may, if it is of opinion that it is expedient so to do for the purpose of strengthening its financial position by notification in the official Gazette,—

(a) order the transfer to itself of any foreign securities specified in the notification at a price so specified, being a price which is, in the opinion of the Central Government not less than the market value of the securities on the date of the notification, or

(b) direct the owner of any foreign securities specified, in the notification to sell or procure the sale of the securities and thereafter to offer or cause to be offered the net proceeds of the sale to the Reserve Bank on behalf of the Central Government at such price as the Central Government may fix.

(2) On the issue of a notification under clause (a) of sub-section (1),—

(a) the securities to which the notification relates shall forthwith vest in the Central Government free from any mortgage, pledge or charge, and the Central Government may deal with them in such manner as it thinks fit ;

(b) the owner of any of the securities to which the notification relates and any person who is responsible for keeping any registers or books in which any of those securities are registered or inscribed, or who is otherwise concerned with the registration or inscription of any of those securities, shall do all such things as are necessary or as the Central Government or the Reserve Bank may

order to be done, for the purpose of securing that—

(i) the securities and any documents of title relating thereto are delivered to the Central Government and, in the case of registered or inscribed securities, that the securities are registered or inscribed in the name of the Central Government or of such nominee of the Central Government as it may specify, and

(ii) any dividends or interest on those securities becoming payable on or after the date of the issue of the notification are paid to the Central Government or its nominee as aforesaid and where in the case of any security payable to bearer which is delivered in pursuance of the said notification, any coupons representing any such dividends or interest are not delivered with the security, such reduction in the price payable therefor shall be made as the Central Government thinks fit :

Provided that where the price specified in the notification in relation to any security is ex-dividend or ex-interest, this sub-clause shall not apply to that dividend or interest or to any coupon representing it.

(3) A certificate signed by any person authorised in this behalf by the Central Government that any specified securities are securities transferred to the Central Government under this section shall be treated by all persons concerned as conclusive evidence that the securities have been so transferred.

17. (1) No person resident in British India shall, except with the permission of the Reserve Bank, settle any property, otherwise than by will, upon any trust under which a person who at the time of the settlement is resident outside India, not being territories notified in this behalf by the Reserve Bank, will have an interest in the property, or exercise, other than by will, any power for payment in favour of a person who at the time of the exercise of the power is resident outside India not being such notified territories. **Restriction on settlement**

(2) A settlement or power as aforesaid shall not be invalid except in so far as it confers any right or benefit on any person who at the time of the settlement or the exercise of the power is resident outside India, not being territories notified by the Reserve Bank.

18. (1) Except with the permission of the Reserve Bank, no person resident in British India shall do any act whereby a company, which is controlled by persons resident in India or the United Kingdom ceases to be so controlled. **Certain provisions as to companies**

(2) Except with the permission of the Reserve Bank, no person resident in British India shall lend any money to any company (other than a banking company) which is controlled, whether directly or indirectly, by persons resident outside India not being

Power to call for  
information

the United Kingdom or territories notified in this behalf by the Reserve Bank.

19. (1) The Central Government may, at any time by notification in the official Gazette, direct owners, subject to such exceptions, if any, as may be specified in the notification, of such foreign exchange or foreign securities as may be so specified, to make a return thereof to the Reserve Bank within such period, and giving such particulars, as may be so specified.

(2) The Central Government may by order in writing require any person to furnish it or any person specified in the order with any information; book or other document in his possession, being information; book or document which the Central Government considers it necessary or expedient to obtain and examine for the purposes of this Act.

(3) If on a representation made by or on behalf of the Reserve Bank a District Magistrate, Sub-Divisional Magistrate, Presidency Magistrate or Magistrate of the first class has reason to believe that a contravention of any of the provisions of this Act has been, or is being or is about to be committed in any place, he may by warrant authorise any police officer above the rank of constable—

(a) to enter and search any place in the manner specified in the warrant; and

(b) seize any books or other documents found in or on such place which should have been produced in compliance with a requisition issued under sub-section (2) or which the police officer has reason to believe to contain the information required to be furnished under that sub-section.

*Explanation.*—In this sub-section, “place” includes a house, building, tent, vehicle, vessel or aircraft.

(4) The provisions of sub-sections (1), (2) and (3) of section 54 of the Indian Income-tax Act, 1922, shall apply in relation to information obtained under sub-section (2) of this section as they apply to the particulars referred to in that section, and for the purposes of such application—

XI of 1922

(a) the said sub-section (3) shall be construed as if in clause (a) thereof there was included reference to a prosecution for an offence under section 23 of this Act, and

(b) persons to whom any information is required to be furnished under an order made under sub-section (2) of this section shall be deemed to be public servants within the meaning of that section.

Supplemental  
provisions

20. (1) For the purposes of this Act and of any rules, directions or orders made thereunder—

(a) until the Reserve Bank by general or special order otherwise directs, any person who has at any time after the commencement of this Act been in India shall be treated as still being resident in India and if such direction is given in relation to any such person the Reserve Bank



may by the same or a subsequent direction, declare the territory in which he shall be treated as being resident ;

(b) in the case of any person to whom clause (a) does not apply the Reserve Bank may by general or special order declare the territory in which he shall be treated as being resident ;

(c) in the case of any person resident in British India who leaves India, the Reserve Bank may give a direction to any bank that until the direction is revoked, any sum from time to time standing to the credit of that person and any security held on his behalf at any office or branch of that bank in British India specified in the direction, shall not be dealt with except with the permission of the Reserve Bank ;

(d) any transactions with a branch of any business, whether carried on by a body corporate or otherwise, shall be treated in all respects as if the branch were a body corporate resident where the branch is situated ;

(e) the making of any book entry or other statement recording a debit against a branch of any business in favour of the head office or any other branch of that business shall be treated as the acknowledgment of a debt whereby a right is created in favour of a person resident where the head office or other branch is situated.

(2) Nothing in this Act relating to the payment of any price or sum by the Central Government shall be construed as requiring the Central Government to pay that price or sum otherwise than in Indian currency or otherwise than in India.

(3) The Reserve Bank may give directions in regard to the making of payments and the doing of other acts by bankers, authorised dealers, travel agents or stock brokers and other persons who are authorised by the Reserve Bank to do anything in pursuance of this Act in the course of their business, as appear to it to be necessary or expedient for the purpose of securing compliance with the provisions of this Act and any rules, orders or directions made thereunder.

21. (1) No person shall enter into any contract or agreement which would directly or indirectly evade or avoid in any way the operation of any provision of this Act or of any rule, direction or order made thereunder.

Contracts in  
evasion of  
this Act

(2) Any provision of, or having effect under, this Act that a thing shall not be done without the permission of the Central Government or the Reserve Bank, shall not render invalid any agreement by any person to do that thing, if it is a term of the agreement that that thing shall not be done unless permission is granted by the Central Government or the Reserve Bank, as the case may be ; and it shall be an implied term of every contract governed by the law of any part of British India that anything agreed to be done by any term of that contract which is prohibited to be done

by or under any of the provisions of this Act except with the permission of the Central Government or the Reserve Bank, shall not be done unless such permission is granted.

(3) Neither the provisions of this Act nor any term (whether expressed or implied) contained in any contract that anything for which the permission of the Central Government or the Reserve Bank is required by the said provisions shall not be done without that permission, shall prevent legal proceedings being brought in British India to recover any sum which, apart from the said provisions and any such term, would be due, whether as a debt, damages or otherwise, but—

(a) the said provisions shall apply to sums required to be paid by any judgment or order of any Court as they apply in relation to other sums; and

(b) no steps shall be taken for the purpose of enforcing any judgment or order for the payment of any sum to which the said provisions apply except as respects so much thereof as the Central Government or the Reserve Bank, as the case may be, may permit to be paid; and

(c) for the purpose of considering whether, or not to grant such permission, the Central Government or the Reserve Bank, as the case may be may require the person entitled to the benefit of the judgment or order and the debtor under the judgment or order, to produce such documents and to give such information as may be specified in the requirement.

False statements

22. No person shall, when complying with any order or direction under section 19 or when making any application or declaration to any authority or person for any purpose under this Act, give any information or make any statement which is false or which he does not believe to be true.

Penalty

23. (1) Whoever contravenes any of the provisions of this Act or of any rule, direction or order made thereunder shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

(2) No Court shall take cognisance of any offence punishable under this section or under section 54 of the Indian Income-tax Act, 1922, as applied by section XI of 1922 19 of this Act, except upon complaint in writing made by a person authorised in this behalf by the Central Government or the Reserve Bank.

Burden of proof in certain cases

24. Where any person is prosecuted for contravening any provision of this Act or of any rule, direction or order made thereunder which prohibits him from doing an act without permission, the burden of proving that he had the requisite permission shall be on him.

Power to Central Government to give direction

25. For the purposes of this Act the Central Government may from time to time give to the Reserve Bank

such general or special directions as it thinks fit, and the Reserve Bank shall, in the exercise of its functions under this Act, comply with any such directions.

26. No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done under this Act or any rule, direction or order made thereunder.

Bar of legal proceedings

27. (1) The Central Government may, by notification in the official Gazette, make rules for carrying into effect the provisions of this Act.

Power to make rules

(2) Without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe forms and the circumstances of their use for the purposes of this Act ;

(b) prescribe the procedure to be followed by authorised dealers and by persons applying for permission to do anything for the doing of which permission is necessary under this Act ;

(c) provide for any matter which is to be or may be prescribed under this Act.

#### STATEMENT OF OBJECTS AND REASONS

A system of exchange control was set up in India on the outbreak of war in September, 1939 for the purpose of conserving and directing to the best uses the limited supplies of foreign exchange available. The control was made effective through a series of rules under the Defence of India Act, 1939. These rules expired on the 30th September, 1946 but have been retained in force for another six months under the Emergency Provisions (Continuance) Ordinance, 1946. The shortage of foreign exchange is likely to continue in view of the disruption of the internal economy of so many nations, and the interruption of established channels of trade. It is therefore necessary that the system of exchange control should be continued in the general interests of the country. Also, the adherence of India to the International Monetary Fund requires her to take certain measures to regulate transactions in foreign exchange in order to fulfil the obligations of membership. Legislation is therefore necessary to give the Central Government powers to continue to control transactions in foreign exchange, securities and gold.

The Bill embodies the financial provisions of the Defence of India Rules relating to exchange control with certain modifications and amendments which experience over the past six years has shown to be desirable in the interests of clarity and effectiveness, and also certain additions such as the section relating to the import of currency and gold and the control over the proceeds of exports which are essentially exchange control matters, although administered by Collectors of Customs for practical convenience. The provisions of the Bill have been drafted in such a manner that the degree of restriction on foreign exchange transactions can be relaxed or increased by executive orders, either generally or for particular foreign currencies, in accordance with the needs of trade and finance or international agreements thus ensuring that flights of capital or wild speculation, which proved so injurious to foreign trade in the period between the two wars, can be immediately controlled.

The provisions of the Bill are explained in detail in the Notes on Clauses.

NEW DELHI ;

LIAQUAT ALI KHAN.

The 1st November, 1946.

*Notes on Clauses*

*Clause 1 (2).*—The Bill applies to all British subjects in India even if they are resident outside British India. An individual residing in an Indian State, who offends against any provision of the Bill, becomes liable to prosecution on entering British India. This provision is necessary in order to guard against evasions of the Bill by persons residing in Indian States operating through agents in British India.

*Clause 2.*—Wide definitions of 'foreign currency', 'foreign exchange' and 'Indian currency' have been given, so as to ensure that foreign exchange and currency transaction of all kinds fall within the purview of the Bill.

*Clause 3.*—The term 'authorised dealer' in foreign exchange is now used in most countries with systems of exchange control to describe persons (usually banks) who have been licensed to deal in foreign exchange. This section empowers the Reserve Bank to issue licences to deal in foreign exchange and to lay down the conditions under which licences may be granted.

*Clause 4 (i).*—The prohibition on transactions in foreign exchange except with authorised dealers is to ensure that control over all foreign exchange dealings can be exercised by the Reserve Bank acting for the Central Government.

*Clause 4 (ii).*—All transactions have to be completed on the basis of rates of exchange authorised by the Reserve Bank to prevent violent fluctuations in exchange rates and in order to comply with the terms of Article IV, sections 3 and 4, of the International Monetary Fund.

*Clause 4 (iii).*—Unless a person, who has obtained foreign exchange in excess of his requirements has to surrender it to an authorised dealer, unnecessary disbursements of foreign currency may take place or an unofficial market develop.

*Clause 4 (iv).*—The purchase of postal orders and money orders payable abroad are excluded from the scope of the Bill, as Post Office sales will be limited by orders issued by the Central Government.

*Clause 5.*—Clause 4 regulates dealings in foreign exchange in British India but control over all foreign exchange transactions would be incomplete unless transactions in rupees in India by persons resident outside the country are also regulated. The purchase or sale of rupee exchange in a foreign country results in a payment in rupees in British India and restrictions on such payments have therefore to be imposed similar to those covering actual transactions in foreign currencies. Under this clause payments to any person resident outside India are restricted but the Reserve Bank is given power to grant exemptions so that the freedom of transactions within the sterling area or any rupee area of the future may be continued unaltered.

*Clause 5 (1) (1a)* prohibits payments to persons outside India either directly or indirectly by crediting their bank accounts except with the permission of the Reserve Bank. The sub-clause covers payments both in rupees and foreign currency.

*Clause 5 (1) (b)* prohibits payments to persons resident outside India by cheque, draft or bill of exchange or by a book entry to an account. [See section 20 (1) (e) for definition of "acknowledge any debt".]

*Clause 5 (1) (c)* prohibits payments by persons resident outside India through the medium of agents in India.

*Clause 5 (1) (d)* prohibits the crediting of the account of a person resident outside India by a Bank or party holding such account.

*Clause 5 (1) (e) & (f)* prohibits transfers of rupees or securities between persons resident in India against transfers of money or property outside India.

*Clause 6.*—Amounts due to non-residents for which remittance cannot be allowed, such as capital sums, are placed to blocked accounts to ensure that the funds are not indirectly remitted or otherwise used in a manner contrary to provisions made by or under this Act.

*Clause 7.*—Special accounts may have to be set up for the working of bilateral trade or payment agreements which it may be found necessary to make with countries who are not members of the International Monetary Fund. This clause would also give Government power to set up clearing accounts with the object of providing facilities for the liquidation of debts due to India by a specified country out of amounts due to that country by India.

*Clause 8 (1).*—Restrictions on the import of gold, silver, and Indian and foreign currency notes, bank notes and coin may be necessary in special circumstances and therefore the Central Government have been given power to issue notifications prohibiting such imports.

The import of gold, silver, currency and bank notes has in the past been restricted by notifications issued under the Sea Customs Act, 1878, but as such restrictions are imposed for the purpose of regulating foreign exchange transactions, it is desirable to include such powers in the provisions of this Bill. This clause further gives the Central Government power to levy licence fees on imports of gold and silver.

*Clause 8 (2).*—The physical export of gold and foreign exchange must be controlled to guard against unauthorised transfers of foreign exchange by travellers.

*Clause 8 (3).*—As the control over imports and exports of bullion and currency will largely be exercised by Customs Collectors it is convenient for the provisions of the Sea Customs Act to be applied to such control.

*Clause 9.*—The acquisition of holdings of foreign exchange by the Central Government serves two purposes—(a) to strengthen the foreign exchange resources of the country and (b) to prevent dealings in foreign exchange by persons other than authorised dealers. Authorised dealers and firms who require foreign currency accounts for business purposes, may be exempted from the operation of any notification issued.

*Clause 10 (1)* makes it obligatory on a person to whom a payment is due from a person outside India not to delay the receipt of the payment. This is to ensure that the country receives the full payment due it, and that individuals do not hoard foreign exchange.

*Clause 10 (2)* gives the Reserve Bank power to issue directions to enforce the surrender of foreign exchange.

*Clause 11.*—The high prices at present ruling for gold and silver make it desirable in the public interest for the Central Government to be able to exercise control over the sale of any gold or silver that may be imported.

*Clause 12.*—The major portion of the country's earnings of foreign exchange are obtained from the proceeds of exports. It is therefore of the greatest importance to ensure that the full foreign exchange value of goods shipped is realised in such a manner that the proceeds are available to meet payments for imports or to strengthen foreign exchange reserves. Power has been taken by the Central Government to issue notifications requiring payment to be made in a manner to be prescribed by the Reserve Bank for any class of goods to any specified country and the Reserve Bank has been given special powers to see that its orders are complied with.

*Clause 13 (1) (a).*—Restrictions on the export of securities are needed to prevent exports of capital.

*Clause 13 (1) (b), (c) & (d).*—Restrictions on the transfer and issue of securities to persons resident outside India is necessary—(a) to ensure that payment for the securities is received from the purchaser and that the securities are not being transferred as a means of acquiring foreign exchange for a purpose, which is contrary to the regulations, and (b) to control foreign investment in India.

*Clause 13 (2) & (4)* makes it obligatory for nominees and registrars to see that the restriction on the transfer of securities to non-residents are being observed. The Reserve Bank is empowered to grant general permission for transactions, so that the present freedom of transfer within the sterling area can be continued by notification.

*Clause 14.*—As bearer securities are transferred by hand, it is desirable to have powers to place special restrictions on such transfers, so that the transfer of bearer securities to non-residents may not take place in contravention of clause 13. This can be achieved by requiring the compulsory deposit of bearer securities with approved persons in the names of the owners.

*Clause 14(1)* gives power to the Central Government to issue orders compelling the compulsory deposit of notified securities.

*Clause 14(2)* prohibits persons authorised to accept the deposit of notified securities from parting with them except to other authorised depositories.

*Clause 14(3)* prohibits the transfer of deposited securities by a depository to a non-resident.

*Clause 14(4)* prohibits dealings in securities liable to deposit unless they are held by an authorised depository.

*Clause 14(5)* prohibits the payment of coupons on securities subject to deposit except to an authorised depository. This will force persons to deposit securities or they will be unable to collect interest thereon.

*Clause 15.*—If it is found necessary to place restrictions on the negotiation of bearer securities, it is advisable for the Central Government also to have power to prohibit the issue of further securities of this type.

*Clause 16.*—As in the case of the acquisition of foreign currencies, the acquisition of securities would be undertaken as a means of strengthening the foreign exchange reserves of the country. Acquisition may be made by the issue of an order by the Central Government—(a) transferring the securities to itself or its nominee against payment at market rates or (b) directing the owners to sell the securities and deliver the foreign exchange proceeds to the Reserve Bank on behalf of the Central Government against payment at a rate of exchange fixed by it.

*Clause 17(1).*—A person who has been prohibited from transferring money or securities to a person resident outside India might evade the regulations by forming a trust of which a non-resident is the beneficiary. It is therefore necessary to prohibit this.

*Clause 17(2).*—A settlement or a trust is not invalidated by a contravention of this regulation except to the extent that benefits are conferred on a non-resident.

*Clause 18(1).*—The restrictions on the transfer of shares in section 13 are designed to ensure that payment is received in an approved manner; and this further section is needed to ensure that a controlling interest in a company is not transferred.

*Clause 18(2).*—This clause is designed to ensure that the branches and subsidiaries of foreign concerns established in India bring in working capital and do not operate on bank loans secured by the guarantees of overseas principals. Banking companies are specifically excluded from the operation of this section as otherwise they would be unable to carry on banking business.

*Clause 19(1).*—The Central Government require the power to call for returns of holdings of foreign exchange and securities of residents, to enable it to estimate the foreign exchange reserves of the country outside the holdings of the Reserve Bank and authorised dealers.

*Clause 19(2) & (4).*—Other information of a general or special nature may be required to enable the Central Government to form an estimate of the financial position of the country or to ensure the provisions of the Act are being carried out. Information is to be treated as confidential in the same manner as information obtained under the Income-tax Act.]

*Clause 19(3).*—It is difficult to detect illegal transactions in foreign exchange, if they are being carried out by means of book entries and internal transactions between agents, and the only method of securing evidence is by search.

*Clause 20(1)(a) & (b).*—The provision that a person who leaves India does not achieve non-resident status until the Reserve Bank issue directions as to the country in which he is to be considered resident, is to prevent claiming of non-resident status and thereby the right to convert rupee holding into foreign exchange, by persons who merely proceed outside India for brief periods. The reason for granting the power to determine a person's particular country of residence is to prevent such person obtaining a foreign currency other than that of the country in which he is actually residing. This is of importance when all foreign currencies are not freely convertible and it is desirable to confine payments in currencies which are inconvertible or in short supply, to the minimum.

*Clause 20(1)(c).*—When a person normally resident in British India leaves the country temporarily, he does not become a non-resident and his account is not therefore subject to any restrictions. In order to prevent irregular transactions taking place, the Reserve Bank is empowered to control operations on the account.

*Clause 20(1)(d) & (e).*—The branch of a business is to be considered as a resident of the territory in which it is situated, regardless of the nationality of the owners of the business or the location of the principal office. All book-keeping transactions by businesses in India with their branches outside India are subject to the restrictions governing transactions with non-residents.

*Clause 20(2).*—This is included in order to remove any possible doubt regarding the currency in which the Central Government will make payment for any foreign currency, foreign security or exported goods acquired under the Act.

*Clause 20(3).*—The Reserve Bank is empowered to issue orders to bankers to ensure the objects of the Bill are achieved.

*Clause 21 (1).*—Contracts entered into for the purpose of evasion of the Act are prohibited.

*Clause 21(2).*—A contract to do anything which requires permission under the Act is not invalid, if it contains a condition stating that fulfilment is subject to permission being obtained. Such a condition will be taken as implied in every contract. No contract can be fulfilled if the thing to be done requires permission and that permission is not obtained.

*Clause 21(3).*—Legal proceedings are not barred in the case of contracts which are not fulfilled because they require things to be done which are contrary to the Act, so that persons may not, by deliberately refraining from applying for permission under the Act, avoid fulfilling their contracts without penalty.

*Clause 21(3)(a), (b) & (c).*—The conversion of damages awarded to a non-resident into foreign currency will only be allowed at the discretion of Government or the Reserve Bank.

<i>Clause 22.—</i>	} Self-explanatory.
<i>Clause 23.—</i>	
<i>Clause 24.—</i>	
<i>Clause 25.—</i>	
<i>Clause 26.—</i>	
<i>Clause 27.—</i>	

The following Bill was introduced in the Legislative Assembly on the 6th November 1946:—

#### L. A. BILL No. 54 OF 1946

#### *A Bill further to amend the Motor Vehicles Act, 1939*

WHEREAS it is expedient further to amend the Motor Vehicles Act, 1939, for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. (1) This Act may be called the Motor Vehicles Short title and  
commencement  
(Second Amendment) Act, 1946.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

**Amendment of  
section 93, Act IV  
of 1939**

2. In clause (a) of section 93 of the Motor Vehicles Act, 1939 (hereinafter referred to as the said Act), after the words and figures "requirements of the Insurance Act, 1938," the words "or of the corresponding enactment of an Indian State notified by the Central Government as a reciprocating State" shall be inserted.

**Amendment of  
section 95, Act IV  
of 1939**

3. In clause (b) of sub-section (1) of section 95 of the said Act, after the words "in a public place" the words, brackets, letter and figures "in British India or in any Indian State notified under clause (a) of section 93" shall be inserted.

**Amendment of  
section 96, Act IV  
of 1939**

4. In section 96 of the said Act,—

(a) after sub-section (1) the following sub-section shall be inserted, namely :—

"(1A) Where any such judgment as is referred to in sub-section (1) is obtained from a Court in an Indian State notified under clause (a) of section 93, the insurer (being an insurer registered under the Insurance Act, 1938, and whether or not he is registered under the corresponding enactment of the Indian State) shall be liable to the person entitled to the benefit of the decree in the manner and to the extent specified in sub-section (1) as if the judgment were given by a Court in British India : IV of 1938

Provided that no sum shall be payable by the insurer in respect of any such judgment unless before or after the commencement of the proceedings in which the judgment is given the insurer had notice through the Court in the Indian State of the bringing of the proceedings and the insurer to whom notice is so given is entitled under the corresponding enactment in force in the Indian State to be made a party to the proceedings and to defend the action on grounds similar to those specified in sub-section (2).";

(b) in sub-section (6),—

(i) after the words "notice referred to in" the words, brackets, figure and letter "sub-section (1A) or" shall be inserted;

(ii) for the words, brackets and figure "otherwise than in the manner provided for in sub-section (2)" the words, brackets, letter and figures "or sub-section (1A) otherwise than in the manner provided for in sub-section (2) or in the corresponding enactment of the Indian State, as the case may be" shall be substituted.



## 5. In section 106 of the said Act,—

Amendment of  
section 106, Act  
IV of 1939

(i) the provisos to sub-sections (1) and (2) shall be omitted;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) No person shall be liable to conviction under sub-section (1) or sub-section (2) by reason only of the failure to produce the certificate of insurance if, within seven days from the date on which its production was required under sub-section (1) or, as the case may be, from the date of occurrence of the accident, he produces the certificate at such police station as may have been specified by him to the police officer who required its production or, as the case may be, to the police officer at the site of the accident or to the officer in charge of the police station at which he reported the accident:

Provided that, except to such extent and with such modifications as may be proscribed, the provisions of this sub-section shall not apply to the driver of a transport vehicle.”

## 6. In section 108 of the said Act,—

Amendment of  
section 108, Act  
IV of 1939

(a) in sub-section (1),—

(i) in the opening paragraph for the words “public service vehicle” the words “transport vehicle” shall be substituted; and after the words “for the purposes of this Chapter” the words “in respect of transport vehicles owned by the members of the society,” shall be inserted;

(ii) in clause (a), for the words “fifty vehicles” the words “fifty transport vehicles” and for the words “additional vehicle in the possession of members of the society” the words “additional transport vehicle insured with the society” shall be substituted;

(iii) in clause (b), for the words, brackets and letter “specified in clause (b)” the words, brackets and letters “specified in clauses (a) and (b)” shall be substituted;

(iv) in sub-clause (i) of clause (f) for the words, brackets and letter “specified in clause (b)” the words, brackets and letters “specified in clauses (a) and (b)” shall be substituted;

(b) in sub-section (2) for the words “public service vehicle” the words “transport vehicle” shall be substituted.

## STATEMENT OF OBJECTS AND REASONS

Chapter VIII of the Motor Vehicles Act, 1939, came into force on the 1st of July, 1946, seven years after the rest of the Act. This Chapter contains one serious defect. It makes no provision for reciprocity with the States in the matter of insurance of motor vehicles, a defect which has assumed greater importance recently

on account of the intention expressed by more than 40 States to enact parallel legislation. Without a scheme of reciprocity insurers would be unable to issue policies valid for the whole of India, and persons owning motor vehicles would find it necessary to obtain a fresh policy for many of the territories they wished to visit or traverse. The greater part of this Bill seeks to overcome the difficulty so far as British India is concerned. The States have agreed to provide for reciprocity when enacting their legislation.

Opportunity has been taken to include two unimportant additional amendments designed to remove further defects in the Chapter.

An endeavour was made to include these proposals in the Motor Vehicles (Amendment) Bill, 1946, which already contains a number of minor amendments to Chapter VIII but this was eventually found impossible.

M. ASAF ALI.

NEW DELHI ;

The 25th October, 1946

#### *Notes on Clauses*

*Clause 2.*—At the present time a policy issued by an insurer registered in a State but not registered in British India could not be used in British India. It is intended to validate in British India policies issued by the insurers of a reciprocating State subject to the necessary safeguards.

*Clause 3.*—This amendment will require that policies issued by insurers in British India should be issued as valid in all the reciprocating States.

*Clause 4.*—This amendment will provide that an insurer's responsibilities as set out in section 96 will apply where the cause of action arises in a reciprocating State.

*Clause 5.*—The effect of the change will be that the driver of a transport vehicle will be required to carry the certificate of insurance on the vehicle. This is considered essential for checking purposes and should not cause any hardship since certificates of registration and fitness are already required to be carried on transport vehicles.

*Clause 6.*—It is proposed to expand section 103 so as to make possible the co-operative insurance of goods vehicles as well as public service vehicles and to clarify what appears to be the present intention in regard to the scope of the business open to co-operative insurance societies.

The following \*Bill was introduced in the Legislative Assembly on the 6th November 1946:—

L. A. BILL No. 55 OF 1946

*A Bill to provide for the continuance during a limited period of powers to control the production, supply and distribution of, and trade and commerce in, certain commodities.*

WHEREAS it is necessary to provide for the continuance during a limited period of powers to control the production, supply and distribution of, and trade and commerce in, foodstuffs (including edible oilseeds and oil), cotton and woollen textiles, paper (including newsprint), petroleum and petroleum products, spare parts of mechanically propelled vehicles, coal, iron, steel and mica ;

\*The Governor-General has been pleased to give the previous sanction under the proviso to sub-section (2) of section 107, clause (b) of sub-section (1) of section 103, the proviso to sub-section (2) of section 12 of the Government of India Act, 1935, and under sub-section (3) of section 2 of the India (Central Government and Legislature) Act, 1946.

AND WHEREAS the Indian Legislature has been empowered by section 2 of the India (Central Government and Legislature) Act, 1946, to make laws with respect to the matters aforesaid ;

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It is hereby enacted as follows :—

1. (1) This Act may be called the Essential Supplies (Temporary Powers) Act, 1946. Short title, extent and duration

(2) It extends to the whole of British India.

(3) It shall cease to have effect on the expiration of the period mentioned in section 4 of the India (Central Government and Legislature) Act, 1946, except as respects things done or omitted to be done before the expiration thereof, and section 6 of the General Clauses Act, 1897, shall apply upon the expiry of this Act as if it had then been repealed by a Central Act.

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G. O. 6, c. 39  
of 1897.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “essential commodity” means any of the following classes of commodities :—

- (i) foodstuffs,
- (ii) cotton and woollen textiles,
- (iii) paper,
- (iv) petroleum and petroleum products,
- (v) spare parts of mechanically propelled vehicles,
- (vi) coal,
- (vii) iron and steel,
- (viii) mica ;

(b) “food-crops” shall include crops of sugarcane ;

(c) “foodstuffs” shall include edible oilseeds and oils ;

(d) “notified order” means an order notified in the official Gazette ;

(e) “paper” shall include newsprint ;

(f) “Provincial Government”, in relation to a Chief Commissioner’s Province, means the Chief Commissioner.

3(1) The Central Government, so far as it appears to it to be necessary or expedient for maintaining or increasing supplies of any essential commodity, or for securing their equitable distribution and availability at fair prices, may by notified order provide for regulating or prohibiting the production, supply and distribution thereof, and trade and commerce therein. Power to control production, supply, distribution, etc., of essential commodities

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide—

(a) for regulating by licences, permits or otherwise the production or manufacture of any essential commodity ;

(b) for bringing under cultivation any waste or arable land whether appurtenant to a building or not, for the growing thereon of food-crops generally or of specified food-crops, and for otherwise maintaining or increasing the cultivation of food-crops generally, or of specified food-crops ;

(c) for controlling the prices at which any essential commodity may be bought or sold ;

(d) for regulating by licences, permits or otherwise the storage, transport, distribution, disposal, acquisition, use or consumption of any essential commodity ;

(e) for prohibiting the withholding from sale of any essential commodity ordinarily kept for sale ;

(f) for requiring any person holding stock of an essential commodity to sell the whole or a specified part of the stock at such prices and to such persons or class of persons or in such circumstances, as may be specified in the order ;

(g) for regulating or prohibiting any class of commercial or financial transactions relating to foodstuffs or cotton textiles, which, in the opinion of the authority making the order are, or if unregulated are likely to be, detrimental to public interest ;

(h) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters ;

(i) for requiring persons engaged in the production, supply or distribution of, or trade or commerce in, any essential commodity to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order ;

(j) for any incidental and supplementary matters, including in particular the entering and search of premises, vehicles, vessels and aircraft, the seizure by a person authorised to make such search of any articles in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, the grant or issue of licences, permits or other documents, and the charging of fees therefor.

(3) An order made under sub-section (1) may confer powers and impose duties upon the Central Government or officers and authorities of the Central Government, notwithstanding that it relates to a matter in respect of which the Provincial Legislature also has power to make laws.

(4) The Central Government, so far as it appears to it to be necessary for maintaining or increasing the production and supply of an essential commodity, may by order authorise any person (hereinafter referred to as an authorised controller) to exercise, with respect to the whole or any part of any such undertaking engaged

in the production and supply of the commodity as may be specified in the order, such functions of control as may be provided by the order; and so long as an order made under this sub-section is in force with respect to any undertaking or part thereof—

(a) the authorised controller shall exercise his functions in accordance with any instructions given to him by the Central Government, so, however, that he shall not have any power to give any direction inconsistent with the provisions of any Act or other instrument determining the functions of the undertakers except in so far as may be specifically provided by the order, and

(b) the undertaking or part shall be carried on in accordance with any directions given by the authorised controller in accordance with the provisions of the order, and any person having any functions of management in relation to the undertaking or part shall comply with any such directions.

4. The Central Government may by notified order direct that the power to make orders under section 3 shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by—

**Delegation of powers**

(a) such officer or authority subordinate to the Central Government, or

(b) such Provincial Government or such officer or authority subordinate to a Provincial Government, as may be specified in the direction.

5. The Central Government may give directions to any Provincial Government as to the carrying into execution in the Provinces of any order made under section 3.

**Power to issue directions to Provinces**

6. Any order made under section 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

**Effect of orders inconsistent with other enactments**

7. (1) If any person contravenes any order made under section 3, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both, and if the order so provides, any Court trying such contravention may direct that any property in respect of which the Court is satisfied that the order has been contravened shall be forfeited to His Majesty :

**Penalties**

Provided that where the contravention is of an order relating to foodstuffs which contains an express provision in this behalf, the Court shall make such direction, unless for reasons to be recorded in writing it is of opinion that the direction should not be made in respect of the whole, or, as the case may be, a part, of the property.

(2) If any person to whom a direction is given under sub-section (4) of section 3 fails to comply with the direction, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

**Attempts and abetments**

8. Any person who attempts to contravene, or abets a contravention of, any order made under section 3 shall be deemed to have contravened that order.

**Offences by corporations**

9. If the person contravening an order made under section 3 is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

**False statements**

10. If any person—

(i) when required by any order made under section 3 to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true, or

(ii) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any such order to maintain or furnish,

he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

**Cognizance of offences**

11. No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code. XLV of 1899

**Power to try offences summarily**

12. Any magistrate or bench of magistrates empowered for the time being to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898, may, on application in this behalf being made by the prosecution, try in accordance with the provisions contained in sections 262 to 265 of the said Code any offence punishable under this Act. V of 1898

**Special provision regarding fines**

13. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the First Class specially empowered by the Provincial Government in this behalf and for any Presidency Magistrate to pass a sentence of fine exceeding one thousand rupees on any person convicted of contravening an order made under section 3. V of 1898

**Presumption as to orders**

14. (1) No order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

I of 1872

(2) Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Act, a Court shall, within the meaning of the Indian Evidence Act, 1872, presume that such order was so made by that authority.

15. Where any person is prosecuted for contravening any order made under section 3 which prohibits him from doing an act or being in possession of a thing without lawful authority or without a permit, licence or other document, the burden of proving that he has such authority, permit, licence or other document, shall be on him. Burden of proof in certain cases

16. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made under section 3. Protection of action taken under the Act

(2) No suit or other legal proceeding shall lie against the Crown for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

XVIII of 1946

17. (1) The Essential Supplies (Temporary Powers) Ordinance, 1946, is hereby repealed. Repeal and saving

(2) Any order made or deemed to be made under the said Ordinance and in force immediately before the commencement of this Act shall continue in force and be deemed to be an order made under this Act; and all appointments made, licences or permits granted and directions issued under any such order and in force immediately before such commencement shall likewise continue in force and be deemed to be made, granted or issued in pursuance of this Act.

## STATEMENT OF OBJECTS AND REASONS

Controls in respect of certain essential commodities (foodstuffs, cotton and woollen textiles, paper, petroleum and petroleum products, spare parts of mechanically propelled vehicles, coal, iron and steel and mica) have been continued beyond the first day of October, 1946, through the Essential Supplies (Temporary Powers) Ordinance, 1946. It is now necessary to convert the Ordinance into an Act of the Indian Legislature. The duration of such an Act will be the period provided in section 4 of the India (Central Government and Legislature) Act, 1946.

The provisions of the Bill follow those of the Essential Supplies (Temporary Powers) Ordinance. The only substantial change occurs in clause 3 (4). This sub-clause, as it stands in the Ordinance, provides for the control of undertakings engaged in the production and supply of coal alone. It is now proposed to make this clause general in effect to include all commodities defined as "essential commodities" in the Act. It is considered desirable that these powers should be available if it should become necessary to use them.

J. MATTHAI.

NEW DELHI;

The 1st November, 1946.

*Notes on Clauses*

*Clause 3 (i).*—Although in regard to some of the essential commodities, *e.g.*, motor spirit and other petroleum products or spare parts of motor vehicles, the power to regulate or prohibit production is not required, sub-clause (i) confers on the Central Government wide and general order-making power in respect of all the essential commodities.

(ii) It is proposed that all controls under this clause should be exercised by means of and in accordance with the notified orders. The Orders to be made under this clause will be of a general nature affecting the public at large or a section of the public. If necessary, these Orders may contain provision for the issue of *ad hoc* directions to particular persons or class of persons by specified authorities in specified circumstances.

(iii) Paragraph (b) of sub-clause (2) is based on sub-rule (1) of rule 80B of the Defence of India Rules. Paragraph (g) will enable Government to control forward contracts and options in foodstuffs and cotton textiles, and the raising of loans on the security of these essential commodities. It does not appear necessary to extend this provision to any other class of essential commodities. The other paragraphs of this sub-clause are based on the relevant clause of rule 81 (2).

(iv) *Sub-clause (3).*—This follows section 2 (2) of the India (Central Government and Legislature) Act, 1946 and section 2 (3) (iv) (a) of the Defence of India Act, 1939.

*Clause 4.*—It is considered unnecessary to empower Provincial Governments to re-delegate the order-making powers under clause (3) to subordinate authorities. Where necessary the Central Government will delegate such powers directly to the provincial officers either *suo motu* or at the instance of the Provincial Governments concerned.

*Clause 2.*—The power to issue directions to Provinces would seem to be useful. This has to be specifically conferred on the Central Government, *vide* section 2 (4) of the India (Central Government and Legislature) Act, 1946, and section 126 (2) of the Government of India Act, 1935.

*Clause 6.*—Same as section 3 of the Defence of India Act.

*Clause 7.*—Sub-clause (1) is the same as sub-rule (4) of rule 81.

*Clause 9.*—Same as rule 122 of the Defence of India Rules.

*Clause 10.*—Same as rule 130 (1) of the Defence of India Rules.

*Clause 12* is on the same lines as rule 130 (4) of the Defence of India Rules, but applies to all offences under the Bill.

*Clause 16* follows section 17 of the Defence of India Act

The following \*Bill was introduced in the Legislative Assembly on the 6th November 1946:—

L. A. BILL No. 56 OF 1946

*A Bill further to amend the Coffee Market Expansion Act, 1942*

WHEREAS it is expedient further to amend the VII of 1942 Coffee Market Expansion Act, 1942, for the purposes hereinafter appearing;

It is hereby enacted as follows:—

Short title

1. This Act may be called the Coffee Market Expansion (Amendment) Act, 1946.

Amendment of section 1, Act VII of 1942

2. Sub-section (3) of section 1 of the Coffee Market Expansion Act, 1942 (hereinafter referred to as the VII of 1942 said Act), shall be omitted.

\* The Governor-General has been pleased to give the previous sanction required by section 67 (2) (a) of the Government of India Act, as saved from repeal by paragraph 12 of the Government of India (Commencement and Transitory Provisions) Order, 1936, to the introduction in the Legislative Assembly of this Bill.



3. For sub-section (2) of section 4 of the said Act, the following sub-section shall be substituted, namely :—

Amendment  
of section 4,  
Act VII of  
1942

“(2) The Board shall consist of—

(a) (i) one person representing the Imperial Council of Agricultural Research, nominated by the Central Government ;

(ii) one person representing the Department of Industries and Supplies of the Central Government, nominated by that Government ;

(iii) one person representing Coorg, nominated by the Central Government ;

(iv) one person representing the Government of Madras, nominated by that Government ;

(v) three persons representing the Mysore State, nominated by the Government of that State ;

(vi) one person representing the Travancore State, nominated by the Government of that State ;

(vii) one person representing the Cochin State, nominated by the Government of that State ;

(b) four persons representing the coffee trade interests, nominated by the Central Government ;

(c) fourteen persons representing the coffee growing industry, namely :—

(i) three persons nominated by the Government of Mysore ;

(ii) three persons nominated by the United Planters' Association of Southern India

(iii) one person nominated by the Coorg Planters' Association ;

(iv) one person nominated by the Coorg Indian Planters' Association ;

(v) one person nominated by the Mysore Planters' Association ;

(vi) one person nominated by the Mysore Indian Planters' Association ;

(vii) one person nominated by the Nilgiri cum Nilgiri-Wynaad Planters' Association ;

(viii) one person nominated by the Malabar-Wynaad Coffee Growers' Association ;

(ix) one person nominated by the Shevaroy Planters' Association ;

(x) one person nominated by the Palni-Bodi-Sirumalai Coffee Growers' Association ;

(d) three persons representing labour, one each to be nominated by the Governments of Madras and Mysore and one to be nominated by the Chief Commissioner of Coorg.”

4. For section 49 of the said Act, the following section shall be substituted, namely :—

Substitution  
of new  
section for  
section 49,  
Act VIII of  
1942

Repeal of “ 49. The Indian Coffee Cess Act, 1935, is hereby repealed.”  
Act XIV of 1935

Substitution  
of new design-  
ation for  
Controller  
of Coffee  
and Deputy  
Controller  
of Coffee

5. For the expressions "Controller of Coffee" and "Deputy Controller of Coffee", wherever they occur in the said Act, the expressions "Chief Coffee-Marketing Officer" and "Deputy Chief Coffee-Marketing Officer" shall respectively be substituted.

### STATEMENT OF OBJECTS AND REASONS

This is a Bill to place the Coffee Market Expansion Act (VII of 1942) on a permanent basis and to change the constitution of the Board in accordance with the recommendations of the Fourth Coffee Control Conference held at Bangalore on 26th April, 1946.

NEW DELHI;

The 1st November, 1946.

J. MATTHAI.

The following \*Bill was introduced in the Legislative Assembly on the 6th November 1946:—

L. A. BILL No. 57 OF 1946

*A Bill to amend the Registration of Transferred Companies Ordinance, 1942*

WHEREAS it is expedient to amend the Registration of Transferred Companies Ordinance, 1942, for the purpose hereinafter appearing:

It is hereby enacted as follows:—

Short title

1. This Act may be called the Registration of Transferred Companies (Amendment) Act, 1946.

Insertion of new section 2A in Ord. LIV of 1942

2. After section 2 of the Registration of Transferred Companies Ordinance, 1942 (hereinafter referred to as the said Ordinance), the following section shall be inserted, namely:—

Cancellation of registration

"2A. The Central Government may at any time by order cancel the registration of any company under this Ordinance on such terms and conditions as may be specified in the order."

Amendment of section 3, Ord. LIV of 1942

3. In section 3 of the said Ordinance, for the words, figures and brackets "by section 2, except the power to make rules conferred by sub-section (3) of that section" the following shall be substituted, namely:—

"by section 2 [except the power to make rules under sub-section (3) thereof] and section 2A".

\* The Governor-General has been pleased to give the previous sanction required by clause (b) of sub-section (1) of section 108 of the Government of India Act, 1935, to the introduction in the Legislative Assembly of this Bill.

### STATEMENT OF OBJECTS AND REASONS

The Registration of Transferred Companies Ordinance, 1942, was passed with the object of enabling companies evacuated from various parts of the British Empire owing to circumstances arising out of the war to register themselves and operate in and from British India. With the termination of the war, some of the companies registered under the Ordinance are desirous of going back to the countries of their original incorporation. With a view to facilitate their return, it is proposed to empower the Central Government to cancel the registration of such companies on such terms and conditions as may be deemed necessary to safeguard the interests of all concerned.

NEW DELHI;

The 31 October 1946.

ISMAIL I. CHUNDRIGAR.

The following \*Bill was introduced in the Legislative Assembly on the 6th November 1946:—

L. A. BILL No. 58 OF 1946

*A bill to provide for certain benefits to workmen employed in or in connection with work of factories in case of sickness, maternity and accident and to make provision for certain other matters in relation thereto.*

WHEREAS it is expedient to provide for certain benefits to workmen employed in or in connection with work of factories in case of sickness, maternity and accident and to make provision for certain other matters in relation thereto ;

It is hereby enacted as follows :—

CHAPTER I

*Preliminary*

1. (1) This Act may be called the Workmen's State Insurance Act, 1946. Short title; extent; commencement and application.

(2) It extends to the whole of British India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

(4) It shall apply in relation to all factories (including factories belonging to the Crown), other than seasonal factories, on the expiry of four months after the commencement of this Act.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(1) " Board " means the Central Board of the Workmen's State Insurance Corporation set up under this Act ;

(2) " cash benefit " means any benefit under this Act payable in money ;

(3) " confinement " means labour resulting in the issue of a living child or labour after twenty-eight weeks of pregnancy resulting in the issue of a child whether alive or dead, and the expression " confined " shall be construed accordingly ;

(4) " contribution " means the sum of money payable to the Corporation by the principal employer in respect of a workman and includes any amount payable by or on behalf of the workman in accordance with the provisions of this Act ;

(5) " Corporation " means the Workmen's State Insurance Corporation set up under this Act ;

(6) " dependant " means a dependant as defined in clause (d) of sub-section (1) of section 2 of the Workmen's Compensation Act, 1923, with the modification that the references to " minor " in that clause shall be construed as references to a person who is under the age of eighteen years ;

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\*The Governor-General has been pleased to give the previous sanction required by the proviso to sub-section (2) of Section 126 of the Government of India Act, to the introduction in the Legislative Assembly to this Bill.

(7) "duly appointed" means appointed in accordance with the provisions made in that behalf by or under this Act;

(8) "employment injury" means a personal injury or occupational disease caused to a workman by accident arising out of and in the course of his employment for which compensation is recoverable by a workman from his employer under the Workmen's Compensation Act, VIII of 1923;

(9) "exempted workman" means a workman who is not liable under this Act to pay the workman's contribution;

(10) "factory" means a factory as defined in clause (j) of section 2 of the Factories Act, 1934, and "seasonal factory" shall have the meaning assigned to it in that XXV of 1934 Act;

(11) "immediate employer", in relation to workmen employed by him, means a contractor or sub-contractor who has undertaken the execution of the whole or any part of any work which is ordinarily part of the work of the factory of the principal employer or is preliminary to the work carried on in, or incidental to the purpose of, any such factory, and includes a person by whom the services of a workman who has entered into a contract of service with him are temporarily lent or let on hire to the principal employer;

(12) "insured person" means a workman who is entitled to any of the benefits provided by this Act;

(13) "occupier" of the factory shall have the meaning assigned to it in the Factories Act, 1934;

(14) "out-worker" means a person to whom any XXV of 1934 articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed, for the purposes of the trade or business of that other person where the work is to be carried out either in the home of the out-worker or in some other premises not being premises under the control and management of that other person;

(15) "prescribed" means prescribed by rules made under this Act;

(16) "principal employer", in relation to workmen employed in or in connection with a factory, means the owner or occupier of the factory and includes the managing agent of such owner or occupier, the legal representative of a deceased owner or occupier, and, where a person has been named as the manager of the factory under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934, the person so named;

(17) "protected period" means the period of six XXV of 1934 months commencing with the week in which an insured person ceases to be a workman;

(18) "regulation" means a regulation made by the Board;

(19) "Schedule" means a Schedule to this Act;

(20) "sickness" means any breakdown in the health of an insured person which is not caused by or arising out of—

(i) his drunkenness or voluntary participation in any brawl, riot or affray; or

(ii) any injury or condition voluntarily brought about by him; or

(iii) any condition attributable to his wilful misconduct;

(21) "temporary disablement" means a breakdown in the health of an insured person resulting from an employment injury and rendering him temporarily incapable of working;

(22) "workman" means any person employed for wages in or in connection with the work of a factory and includes—

(i) any workman directly employed by the principal employer on any work of, or incidental or preliminary to or connected with the work of, the factory whether such work is done by the workman in the factory or elsewhere or as an out-worker;

(ii) any workman employed under an immediate employer or contractor on work which is ordinarily part of the work of the factory or which is preliminary to the work carried on in, or incidental to the purpose of, the factory, whether such workman works in the factory or elsewhere or as an out-worker;

but does not include—

(i) any member of His Majesty's naval, military or air forces; or

(ii) any person solely employed in a clerical capacity or employed on remuneration which in the aggregate exceeds four hundred rupees a month; or

(iii) any person employed in such employment as the provincial Government may, by notification in the official Gazette, specify in this behalf;

(23) any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them;

(24) the expressions "managing agent", "occupational disease", "partial disablement" where the disablement is of a permanent nature and "total disablement" shall have respectively the meanings assigned to them in the Workmen's Compensation Act,

VIII of 1923 1923;

(25) the expression "wages" shall have the meaning assigned to it in the Payment of Wages Act, 1936;

IV of 1936

(26) "week" means the period of seven days commencing at midnight between Sunday and Monday.

## CHAPTER II

*Corporation, Central Board, Standing Committee  
and Medical Benefit Council***Establishment of  
Workmen's State  
Insurance  
Corporation.**

3. (1) A Corporation to be called the Workmen's State Insurance Corporation shall be established for the administration of the scheme of Workmen's State Insurance in accordance with the provisions of this Act.

(2) The Corporation shall be a body corporate by the name of Workmen's State Insurance Corporation having perpetual succession and a common seal and shall by the said name sue and be sued.

**Constitution of  
Central Board**

4. The Central Government shall constitute the Central Board of the Corporation consisting of the following members, namely:—

(a) the member of the Governor General's Executive Council in charge of the Department of Labour, *ex-officio*, as Chairman;

(b) the member of the Governor General's Executive Council in charge of the Department of Health, *ex-officio*, as Vice-Chairman;

(c) not more than five persons to be nominated by the Central Government, of whom at least two shall be officials representing the Labour and Finance Departments;

(d) eleven persons representing provinces to be nominated by the Provincial Governments in the manner prescribed by the Central Government;

(e) one person to be nominated by the Central Government to represent Chief Commissioners' Provinces and Central Administered Areas;

(f) three persons representing employers to be nominated by the Central Government in consultation with such organizations of employers as may be prescribed by the Central Governments;

(g) three persons representing workmen to be nominated by the Central Government in consultation with such organizations of workmen as may be prescribed by the Central Government;

(h) two persons representing the medical profession to be nominated by the Central Government in consultation with such organizations of medical practitioners as may be prescribed by the Central Government; and

(i) two persons to be elected by the Central Legislative Assembly.

**Term of office of  
members of the  
Board.**

5. Save as otherwise expressly provided in this Act the term of office of members of the Board, other than the *ex-officio* members and members referred to in clauses (c), (d) and (e) of section 4, shall be five years commencing from the date on which their nomination or election is notified:

Provided that a member of the Board shall, notwithstanding the expiry of the said period of five years, continue to hold office until the nomination or election of his successor is notified.

(2) The members of the Board referred to in clauses (c), (d) and (e) of section 4 shall hold office during the pleasure of the Government nominating them.

6. The Central Government shall constitute a <sup>Constitution of</sup> Standing Committee of the Board from among its <sup>Standing</sup> members, consisting of— <sup>Committee.</sup>

(a) a Chairman, nominated by the Central Government ;

(b) three members of the Board, being officials of the Central Government, nominated by that Government ;

(c) seven members elected by the Board as follows :—

(i) three members from among the members of the Board nominated by Provincial Governments ;

(ii) one member from among the members of the Board representing employers ;

(iii) one member from among the members of the Board representing workmen ;

(iv) one member from among the members of the Board representing the medical profession ; and

(v) one member from among the members of the Board elected by the Central Legislative Assembly.

7. (1) Save as otherwise expressly provided in this Act, the term of office of a member of the Standing Committee, other than a member referred to in clause (a) or clause (b) of section 6, shall be five years from the date on which his election is notified : <sup>Term of office of members of Standing Committee.</sup>

Provided that a member of the Committee shall, notwithstanding the expiry of the said period of five years, continue to hold office until the election of his successor is notified :

Provided further that a member of the Committee shall cease to hold office when he ceases to be a member of the Board.

(2) A member of the Committee referred to in clause (a) or clause (b) of section 6 shall hold office during the pleasure of the Central Government.

8. (1) The Central Government shall constitute <sup>Medical Benefit</sup> a Medical Benefit Council to advise on matters relating to the administration of medical benefit, certification of sickness and other connected matters. <sup>Council.</sup>

(2) The Council shall consist of—

(a) the Director General, Indian Medical Service, *ex-officio*, as chairman ;

(b) the Public Health Commissioner to the Government of India, *ex-officio*, as Vice-Chairman ;

(c) the Medical Commissioner of the Corporation, *ex-officio*;

(d) eleven members representing provinces to be nominated by the Provincial Governments in the manner prescribed by the Central Government ;

(e) one member representing employers to be nominated by the Central Government in consultation with such organizations of employers as may be prescribed by the Central Government ;

(f) three members representing workmen to be nominated by the Central Government in consultation with such organizations of workmen as may be prescribed by the Central Government ; and

(g) three members, of whom one shall be a woman, representing the medical profession, to be nominated by the Central Government in consultation with such organizations of medical practitioners as may be prescribed by the Central Government.

(3) Save as expressly provided in this Act, the term of office of a member of the Medical Benefit Council, other than a member referred to in any of the clauses (a) to (d) of sub-section (2), shall be three years from the date on which his nomination is notified.

(4) A member of the Medical Benefit Council referred to in clause (d) of sub-section (2) shall hold office at the pleasure of the Provincial Government nominating him.

**Filling of vacancies.**

9. (1) Vacancies in the office of nominated or elected members of the Board, the Standing Committee and the Medical Benefit Council shall be filled by nomination or election, as the case may be.

(2) A member of the Board, the Standing Committee or the Medical Benefit Council nominated or elected in a casual vacancy shall hold office only so long as the member in whose place he is nominated or elected would have been entitled to hold office if the vacancy had not occurred.

**Resignation of membership.**

10. A member of the Board, Standing Committee or the Medical Benefit Council may resign his office by notice in writing to the Central Government and his seat shall fall vacant on the acceptance of the resignation by that Government.

**Cessation of membership.**

11. A member of the Board, Standing Committee or the Medical Benefit Council shall cease to be a member of that body if he fails to attend three consecutive meetings thereof :

Provided that the Board, Standing Committee or the Medical Benefit Council, as the case may be



may, subject to rules made by the Central Government in this behalf, restore him to membership.

**12.** A person shall be disqualified for being chosen as or for being a member of the Board, the Standing Committee or the Medical Benefit Council—

(a) if he is of unsound mind and stands so declared by a competent court;

(b) if he is an undischarged insolvent;

(c) if he has directly or indirectly by himself or by his partner any interest in a subsisting contract with, or any work being done for, the Corporation except as a shareholder (not being a Director) of a company; or

(d) if before or after the commencement of this Act, he has been convicted of an offence and sentenced to transportation or imprisonment for not less than two years, unless a period of ten years or such less period as the Governor General may allow in any particular case, has elapsed after his release.

**13.** Members of the Board, the Standing Committee and the Medical Benefit Council shall receive such salaries and allowances as may from time to time be prescribed by the Central Government.

**14.** (1) The Central Government may, in consultation with the Board, appoint the following officers (hereinafter referred to as Principal Officers) of the Corporation, namely :—

(a) a Director General of Workmen's State Insurance;

(b) an Insurance Commissioner;

(c) a Medical Commissioner;

(d) a Chief Accounts Officer; and

(e) an Actuary.

(2) The Director General shall be the Chief Executive Officer of the Corporation.

(3) The Principal Officers shall be whole-time officers of the Corporation and shall not undertake any work unconnected with their office without the sanction of the Central Government.

(4) A Principal Officer shall hold office for such period, not exceeding five years, as may be specified in the order appointing him. An outgoing Principal Officer shall be eligible for reappointment if he is otherwise qualified.

(5) A Principal Officer shall receive such salary and allowances as may be prescribed by the Central Government.

(6) A person shall be disqualified for being appointed as, or for being, a Principal Officer if he is subject to any of the disqualifications specified in section 12.

(7) The Central Government may at any time remove a Principal Officer from office and shall do so if

such removal is recommended by a resolution of the Board passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the total strength of the Board.

**Staff**

15. (1) The Board may employ such staff of officers and servants as may be necessary for the efficient transaction of the business of the Corporation provided that the sanction of the Central Government shall be obtained for the creation of any post with a maximum monthly salary of five hundred rupees and above.

(2) The Board shall, with the approval of the Central Government, make regulations regarding the method of recruitment, pay and allowances, discipline, superannuation benefits and other conditions of service of the members of its staff.

(3) Every appointment to posts carrying a maximum monthly pay of five hundred rupees and above shall be made in consultation with the Federal Public Service Commission.

Provided that this sub-section shall not apply to an officiating or temporary appointment for an aggregate period not exceeding one year.

**Powers of Board and Standing Committee.**

16. (1) The Board shall exercise all the powers and perform all the functions of the Corporation.

(2) Subject to the general superintendence and control of the Board, the Standing Committee shall administer the affairs of the Corporation and may exercise any of the powers and perform any of the functions of the Board.

(3) The Standing Committee shall submit for the consideration and decision of the Board all such cases and matters as may be specified in regulations made in this behalf.

(4) The Standing Committee may, in its discretion, submit any other case or matter for the decision of the Board.

**Board's power to promote measures for health, etc., of workmen.**

17. The Board may, in addition to the scheme of benefits specified in this Act, promote measures for the improvement of the health and welfare of insured persons and for the rehabilitation and re-employment of disabled and injured workmen and may incur in respect of such measures expenditure from the funds of the Corporation within such limits as may be prescribed by the Central Government.

**Meetings of Board, Standing Committee and Medical Benefit Council.**

18. Subject to any rules made under this Act, the Board, the Standing Committee and the Medical Benefit Council shall meet at such times and places and shall observe such rules or procedure in regard to transaction of business at their meetings as may be specified in the regulations made in this behalf.

**Supersession of Board and Standing Committee.**

19. (1) If in the opinion of the Central Government the Board or the Standing Committee persistently makes default in performing the duties imposed on it by or under this Act or abuses its powers, that Government may by notification in the official Gazette supersede the Board or the Committee, as the case may be :

Provided that before issuing a notification under this sub-section the Central Government shall give a reasonable opportunity to the Board or the Standing Committee, as the case may be, for showing cause against the proposal and shall consider the explanations and objections, if any, of the Board or the Committee, as the case may be.

(2) Upon the publication of a notification under sub-section (1) superseding the Board or the Standing Committee, all the members of the Board or the Committee, as the case may be, shall, as from the date of such publication, be deemed to have vacated their offices.

(3) When the Board or the Standing Committee has been superseded, the Central Government may—

(a) immediately constitute a new Board under section 4 or, as the case may be, a new Committee under section 6 ; or

(b) in its discretion, appoint such agency for such period as it may think fit to exercise the powers and perform the functions of the Board or the Committee, as the case may be, and such agency shall be competent to exercise all the powers and perform all the functions of the Board or, as the case may be, of the Committee.

(4) The Central Government shall cause a full report of any action taken under this section and the circumstances leading to such action to be laid before the Central Legislature at the earliest opportunity and in any case not later than three months from the date of the notification superseding the Board or the Standing Committee, as the case may be.

20. The Medical Benefit Council shall—

**Duties of Medical  
Benefit Council**

(a) advise the Board, the Standing Committee and the Medical Commissioner in matters connected with the administration of medical treatment and attendance ;

(b) have such powers and duties as may be prescribed in relation to complaints by workmen against medical practitioners in connection with medical treatment and attendance ; and

(c) perform such other duties in connection with medical treatment and attendance as may be specified in the regulations.

21. The Principal Officers shall exercise such powers and discharge such duties as may be prescribed. They shall also perform such other functions as may be specified in the regulations.

**Duties of Principal  
Officers**

22. No act of the Board, the Standing Committee or the Medical Benefit Council shall be deemed to be invalid by reason of any defect in the constitution of the Board, the Committee or the Council, or on the ground that any member thereof was not entitled to hold or continue in office by reason of any disqualification or of any irregularity in his nomination or election, or by reason of such act having been done during the period of any vacancy in the office of any member of the Board, the Standing Committee or the Medical Benefit Council. **Acts of Board, etc.,  
not invalid by  
informality, etc.**

## CHAPTER III

*Finance and Audit***Workmen's State Insurance Fund.**

23. (1) All moneys received on behalf of the Corporation shall be paid into a Fund called the Workmen's State Insurance Fund which shall be held and administered by the Board for the purposes of this Act.

(2) The Board may accept on behalf of the Corporation donations and gifts from the Central or any Provincial Government, Indian State, or any individual or body whether incorporated or not, for all or any of the purposes of this Act.

(3) All moneys accruing or payable to the said Fund shall be received by such officers of the Corporation as may be authorised by the Board in this behalf and shall forthwith be paid by them into the Reserve Bank of India or such other bank as may be approved by the Central Government, to an account styled the account of the Workmen's State Insurance Fund.

(4) Such account shall be operated on by such officers as may be authorised by the Standing Committee with the approval of the Board.

**Purposes for which the Fund may be expended**

24. Subject to the provisions of this Act and of any rules made by the Central Government in that behalf, the Workmen's State Insurance Fund shall be expended only for the following purposes, namely :—

(i) payment of benefits and provision of medical treatment and attendance to workmen in accordance with the provisions of this Act and defraying charges and costs in connection therewith ;

(ii) payment of fees, salaries and allowances to members of the Board, the Standing Committee and the Medical Benefit Council ;

(iii) payment of salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident or other benefit fund of officers and servants of the Corporation and meeting the expenditure in respect of offices and other services set up for the purpose of giving effect to the provisions of this Act ;

(iv) establishment and maintenance of hospitals, dispensaries and other institutions and the provision of medical and other ancillary services for the benefit of workmen ;

(v) payment of contributions to Provincial Governments, Indian States, any private body or individual, towards the cost of medical treatment and attendance provided to workmen, including the cost of any building and equipment, in accordance with any agreement entered into by the Corporation ;

(vi) cost (including all expenses) of auditing the accounts of the Corporation and of the valuation of its assets and liabilities ;

(vii) defraying the cost (including all expenses) of the Workmen's Insurance Courts set up under this Act;

(viii) payment of any sums under any contract entered into for the purposes of this Act by the Board or the Standing Committee or by any officer duly authorized by the Board or the Committee in that behalf;

(ix) payment of sums under any decree, order or award of any court or tribunal against the Corporation or any of its officers or servants for any act done in the execution of his duty or under a compromise or settlement of any suit or other legal proceedings or claim instituted or made against the Corporation;

(x) defraying the cost and other charges of instituting or defending any civil or criminal proceedings arising out of any action taken under this Act;

(xi) defraying expenditure, within the limits prescribed, on measures for the improvement of the health and welfare of insured persons and for the rehabilitation and employment of disabled and injured workmen; and

(xii) such other purposes as may be authorised by the Board with the previous approval of the Central Government.

25. (1) The Board may, subject to such conditions as may be prescribed by the Central Government, acquire and hold property both movable and immovable, <sup>Holding of property, etc.</sup> sell or otherwise transfer any movable or immovable property which may have become vested in or have been acquired by it and do all things necessary for the purposes for which the Corporation is established.

(2) Subject to such conditions as may be prescribed by the Central Government, the Board may from time to time invest any moneys which are not immediately required for expenses properly defrayable under this Act and may, subject as aforesaid, from time to time re-invest or realise such investments.

(3) The Board may, with the previous sanction of the Central Government and on such terms as may be prescribed by it, raise loans and take measures for discharging such loans.

(4) The Board may constitute for the benefit of its staff or any class of them, such provident or other benefit fund as it may think fit.

26. The Board shall in each year frame a budget <sup>Budget estimates.</sup> showing the probable receipts and the expenditure which it proposes to incur during the following year and shall submit a copy of the budget for the approval of the Central Government before such date as may be fixed by it in that behalf. The budget shall contain provisions adequate in the opinion of the Central Government for the discharge of the liabilities incurred by the Board and for the maintenance of a working balance.

**Accounts**

27. The Board shall maintain correct accounts of the income and expenditure of the Corporation in such form and in such manner as may be prescribed by the Central Government.

**Audit**

28 (1) The accounts of the Board shall be audited at such times and in such manner as may be prescribed by auditors appointed by the Central Government.

(2) The auditors shall, at all reasonable times, have access to the books, accounts and other documents of the Corporation and may, for the purposes of the audit, call for such explanation and information as they may require or examine any principal or other officer of the Corporation.

(3) The auditors shall forward to the Central Government a copy of their report together with an audited copy of the accounts of the Corporation.

(4) The cost of the audit as determined by the Central Government shall be paid out of the funds of the Corporation.

**Annual report**

29. (1) The Board shall submit to the Central Government an annual report of its work and activities.

(2) The report together with the audited accounts of the Corporation shall be placed before the Central Legislature and published in the official Gazette.

**Valuation of assets and liabilities**

30. The Board shall, every five years, have a valuation of the assets and liabilities of the Corporation made by a valuer appointed with the approval of the Central Government :

Provided that it shall be open to the Central Government to direct a valuation to be made at such other times as it may consider necessary.

**CHAPTER IV***Contributions***Contributions**

31. (1) The contribution payable under this Act in respect of a workman shall comprise contribution by the employer (hereinafter referred to as the employer's contribution) and contribution payable by the workman (hereinafter referred to as the workman's contribution).

(2) The contributions shall be paid at the rates specified in the First Schedule.

(3) A week shall be the unit in respect of which all contributions shall be payable under this Act.

(4) The contributions payable in respect of each week shall ordinarily be paid on the first day of the week and, in the case of a workman employed after the first day of the week, on the first day of his employment :

Provided that if such first day is a holiday on which payments will not be received, the payment may be made on the working day immediately following :

Provided further that regulations made under this Act may provide that the payment of the weekly contributions may be made at intervals of two or more weeks.

**32.** (1) The principal employer shall pay in respect of every workman employed in or in connection with any work of a factory (whether employed directly by the principal employer or an immediate employer and whether working in the factory of the principal employer or elsewhere or as an out-worker) both the employer's contribution and the workman's contribution.

**Principal employer to pay contributions in first instance**

(2) Notwithstanding anything contained in any other enactment but subject to the provisions of this Act and the regulations, if any, made thereunder, the principal employer shall, in the case of a workman directly employed by him (not being an exempted workman), be entitled to recover from the workman the workman's contribution by deduction from his wages or otherwise :

Provided that no such deduction shall be made from any wages other than such as relate to the period or part of the period in respect of which the contribution is payable, or in excess of the sum representing the workman's contribution for the period proportionate to the number of days for which he was paid wages during that period.

(3) Notwithstanding any contract to the contrary, the principal employer shall not be entitled to deduct the employer's contribution from any wages payable to a workman or otherwise to recover it from him.

(4) Any sum deducted by the principal employer from wages under this Act shall be deemed to have been entrusted to him by the workman for the purpose of paying the contribution in respect of which it was deducted.

(5) Subject to any regulations made in this behalf, the principal employer shall bear the expenses of remitting the contributions to the Corporation.

**33.** (1) A principal employer, who has paid contribution in respect of a workman directly employed by an immediate employer, shall be entitled to recover the amount of the contribution so paid (that is to say the employer's contribution as well as the workman's contribution if any) from the immediate employer, either by deduction from any amount payable to him by the principal employer under any contract, or as a debt payable by the immediate employer.

**Recovery from immediate employer of contribution**

(2) In the case referred to in sub-section (1), the immediate employer shall be entitled to recover the workman's contribution from the workman directly employed by him by deduction from wages or otherwise, subject to the conditions specified in sub-section (2) of section 32.

General provisions  
as to payment of  
contributions

**34.** (1) No workman's contribution shall be payable by or on behalf of a workman whose average daily wages do not exceed ten annas.

*Explanation.*—The average daily wages of a workman shall be calculated in the manner specified in the First Schedule.

(2) Contribution (both the employer's contribution and the workman's contribution) shall be payable by the principal employer for each week during the whole or part of which a workman was employed :

Provided that where no services were rendered by a workman during any whole week and no wages were paid to him in respect of that week the employer shall not be liable to pay any contribution either on his own behalf or on behalf of the workman, in respect of that week.

(3) Where a workman is paid wages for a portion of the week, the employer shall be liable to pay both the employer's contribution and the workman's contribution for the week in full but shall be entitled to recover from the workman as his share of the contribution only such amount as is proportionate to the number of days in the week for which he is paid wages.

(4) Where a weekly contribution has been paid in respect of a workman for any week, no further contribution shall be payable in respect of that workman for the same week.

(5) Where a workman is employed by more than one principal employer in a week, the principal employer who first employed him in that week shall be deemed to be the employer for the purposes of this Act relating to the payment of contribution :

Provided that such employer shall be entitled to recover a proportionate part of the contribution paid by him in respect of the workman from the employer or employers who subsequently employed the workman during the same week.

*Explanation.*—For the purposes of this section, a workman who receives leave allowances (however described) at rates not less than one-half of his daily wages, shall be deemed to have received wages.

Method of  
payment of  
contributions

**35.** Subject to the provisions of this Act, the Board may make regulations for any matter relating or incidental to the payment and collection of contributions payable under this Act and without prejudice to the generality of the foregoing power such regulations may provide for—

(a) the manner in which payments of contributions may be made ;

(b) the payment of contributions by means of adhesive or other stamps affixed to or impressed upon books, cards or otherwise and regulating the manner, times and conditions in, at or under which, such stamps are to be affixed or impressed ;

(c) the entry in or upon books or cards of particulars of contributions paid and benefits distributed in the case of the insured persons to whom such books or cards relate ; and



(d) the issue, sale, custody, production and delivery of books or cards and the replacement of books or cards which have been lost, destroyed or defaced.

36. (1) Every principal and immediate employer shall submit to the Board or to such officer of the Corporation as the Board may direct such returns in such form and containing such particulars relating to the workmen employed by him, as may be specified in regulations made in this behalf. Returns by employers

(2) Any inspector appointed by the Board for the purposes of this Act (hereinafter referred to as inspector), or other official of the Corporation authorised in this behalf by the Board may, for the purposes of enquiring into the correctness of any of the particulars stated in any return referred to in sub-section (1) or for the purpose of ascertaining whether any of the provisions of this Act has been complied with—

(a) require any principal or immediate employer to submit to such inspector or other official such accounts, books and other documents relating to the employment of workmen and payment of wages or to furnish to him such information as he may consider necessary; or

(b) at any reasonable time enter any office factory or other premises occupied by such principal or immediate employer and require any person found in charge thereof to produce to such inspector or other official and allow him to examine such accounts, books and other documents relating to the employment of workmen and payment of wages or to furnish to him such information as he may consider necessary; or

(c) examine, with respect to any matter relevant to the purposes aforesaid the principal or immediate employer, his agent or servant, or any person found in such factory, office or other premises, or any person whom the said inspector or other official has reasonable cause to believe to be or to have been an insured person, and require the person examined to sign a declaration of the truth of the statement made by him on such examination.

(3) An inspector shall exercise such functions and perform such duties as may be authorized by the Board or as may be specified in the regulations.

## CHAPTER V

### *Benefits*

37. (1) Subject to the provisions of this Act, the Benefits conferred upon insured persons are—

(a) periodical payments while rendered incapable of working by sickness (hereinafter referred to as sickness cash benefit);

(b) cash payments, in the case of confinement, to a woman worker (hereinafter referred to as maternity benefit);

(c) periodical payments during continuance of incapacity for work by reason of employment injury (hereinafter referred to as disablement benefit);

(d) periodical payments to the dependants of an insured person who dies by reason of employment injury (hereinafter referred to as dependant's benefit); and

(e) medical treatment and attendance (hereinafter referred to as medical benefit).

(2) Where the provisions of this Act relating only to some of the benefits have been made applicable in relation to a factory, the workmen employed in or in connection with the work of the factory, shall be entitled only to the benefits provided by the provisions so made applicable.

(3) Subject to the provisions of this Act, a workman shall not be entitled to receive the benefit unless—

(a) in the case of sickness cash benefit, he is certified by a duly appointed medical practitioner to be incapable of working by reason of sickness;

(b) in the case of maternity benefit, the woman is certified to be eligible for that benefit by an authority authorized in this behalf by regulations; and

(c) in the case of disablement or dependant's benefit, he is entitled to compensation under the Workmen's Compensation Act, 1923.

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#### Entry into scheme

38. A workman shall be deemed to have entered into the insurance scheme from the beginning of the first week for which contribution in respect of him is paid.

#### Sickness cash benefit

39. (1) Subject to the provisions of this Act and the regulations, if any, a workman who is or has been an insured person shall, if certified by a duly appointed medical practitioner to be incapable of working by reason of sickness, be entitled to receive sickness cash benefit at the rate specified in this behalf in the Second Schedule, for such period as will, together with any period or periods, during which he has already received the benefit, make up a total period of eight weeks during any continuous period of twelve months.

(2) No sickness cash benefit shall be payable for an initial waiting period of three days.

(3) Sickness cash benefit shall be payable for seven days in the week.

(4) A workman shall not be qualified to receive the sickness cash benefit unless—

(a) not less than six months have elapsed after his entry into the insurance scheme; and

(b) not less than seventeen weekly contributions in respect of the workmen have been paid in a continuous period of six months preceding the week in which the benefit is claimed or the week from which the protected period commences, as the case may be.

(5) A workman, who ceases to be an insured person for over a continuous period of six months, shall be deemed on his re-entry into the insurance scheme to be a new entrant and the provisions of this Act shall apply to him accordingly.

(6) In computing the continuous period of twelve months referred to in sub-section (1) or the continuous period of six months referred to in sub-sections (4) and (5), the following periods or any combination of them, shall not be taken into account or deemed to constitute a break in the continuity, namely :—

(a) any period during which the workman is in receipt of sickness cash benefit (including the initial waiting period of three days), or maternity benefit ; and

(b) any period not exceeding six months during which he is in receipt of disablement benefit at full rates specified in the Second Schedule (hereinafter referred to as full rates) for temporary disablement.

(7) A person who has ceased to be an insured person shall be entitled to retain his right to sickness cash benefit for, and subject to the other provisions of this section be eligible to receive such benefit within, a period of six months commencing with the week in which he ceases to be an insured person, if at the time of such ceasing he was otherwise qualified for the benefit under sub-section (4).

(8) The right conferred on any person by sub-section (7) shall not be adversely affected by reason of that person becoming an insured person within the period of six months referred to therein.

**40.** (1) Subject to the provisions of this **Maternity benefit** Act and the regulations, if any, maternity benefit shall be payable to a woman, who is or has been an insured person at the rate of twelve annas a day for a period of twelve weeks of which not more than six weeks shall precede the confinement.

(2) Maternity benefit shall be payable for seven days in the week.

(3) A woman shall not be qualified for the maternity benefit unless—

(i) not less than twenty-six weekly contributions in respect of the woman have been paid within a continuous period of twelve months immediately preceding the week in which she is confined or in which she gives notice of pregnancy before confinement, whichever is more advantageous to her, or the week from which the protected period commences ;

(ii) at least five out of the said twenty-six contributions have been paid before thirty-five weeks preceding the week in which the confinement takes place or notice of pregnancy is given or the week from which the protected period commences, as the case may be.

(4) In computing the continuous period of twelve months referred to in sub-section (3), the following periods or any combination of them shall not be taken into account or be deemed to constitute a break in the continuity, namely :—

(a) any period during which the woman was in receipt of sickness cash benefit (including the initial waiting period of three days) ;

(b) any period during which she was in receipt of maternity benefit in respect of a previous confinement ; and

(c) any period not exceeding six months during which she was in receipt of disablement benefit at full rates for temporary disablement.

(5) A woman who has ceased to be an insured person shall be entitled to retain her right to maternity benefit for, and subject to the other provisions of this section be eligible to receive such benefit within a period of six months commencing with the week in which she ceased to be an insured person, if at the time of such ceasing she was otherwise qualified for the benefit under this section.

(6) The right conferred by sub-section (5) shall not be adversely affected by reason of the woman becoming an insured person within the period of six months referred to therein.

**Disablement  
benefit**

**41.** (1) Subject to the provisions of this Act, disablement benefit shall be payable—

(a) to a workman who sustains temporary disablement, during the period of such disablement ;

(b) to a workman who sustains permanent partial disablement, during his life ;

(c) to a workman who sustains permanent total disablement, during his life ; and

(d) to the dependants of a workman who dies of an employment injury, for such period as is specified in this behalf in the Second Schedule.

(2) No disablement benefit shall be payable for the initial waiting period of three days.

(3) Disablement benefit shall be paid in the scale and subject to the conditions specified in this behalf in the Second Schedule.

**Disablement and  
dependant's  
benefits**

**42.** Where an insured person is entitled to receive or recover, whether from his employer or any other person, any compensation or damages under the Workmen's Compensation Act, 1923, or otherwise in respect of any employment injury, then the following provisions shall apply, namely :—

(i) The insured person shall, in lieu of such compensation or damages, receive the disablement benefit provided by this Act (but subject otherwise to the conditions specified in the Workmen's Compensation Act, 1923) from the Corporation and not from the employer or other person.

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(ii) If the insured person dies as a result of the employment injury (whether or not he was in receipt of any periodical cash payment for temporary disablement in respect of the injury), dependant's benefit shall be payable at the rates and in the proportion specified in the Second Schedule to his widow or widows during her or their widowhood, and to minor legitimate or adopted sons and minor legitimate unmarried daughters.

(iii) In case the insured person does not leave behind him any widow or children as aforesaid or in the case of a woman worker if she does not leave behind her any children as aforesaid, dependant's benefit shall be paid to the other dependants of the deceased at such rates as may be determined by the Commissioner appointed under the Workmen's Compensation Act, 1923.

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(iv) The amount of dependant's benefit payable under clause (iii) shall not exceed one-half of the amount which would have been payable to the workman as benefit on permanent total disablement.

(v) Save as modified by this Act, the obligations and liabilities imposed on an employer by the Workmen's Compensation Act, 1923, shall continue to apply to him.

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VIII of 1923 43. All medical examinations and treatment referred to in the Workmen's Compensation Act, 1923, shall for the purposes of this Act, be carried out by duly appointed medical practitioners. **Medical examination**

VIII of 1923 44. (1) Any payment of disablement benefit may be reviewed by the Commissioner appointed under the Workmen's Compensation Act, 1923, on the application of— **Review of benefits**

(a) an Insurance Officer of the Corporation, or  
(b) the person receiving the benefit,  
and such application shall be accompanied by a certificate of a duly appointed medical officer :

Provided that such application may be made without such certificate in such circumstances as may be specified in regulations made in this behalf.

(2) Subject to the provisions of this Act, the Commissioner may, on such review as aforesaid, direct that the disablement benefit be continued, increased, reduced or discontinued.

45. (1) An insured person shall be entitled to the medical benefit in the case of maternity, sickness and injury. **Medical benefit**

(2) Such medical benefit may be given either in the form of out-patient treatment and attendance in a hospital or dispensary or visits to the home of the insured person or treatment as in-patient in a hospital or other institution.

(3) Medical treatment shall include medical, surgical and obstetric treatment.

(4) Out-patient treatment in a hospital or dispensary may be given to a person without limit of time so long as he continues to be an insured person and thereafter in the case of a person referred to in sub-section (7) of section 39, during the protected period and in other cases for a period of three months.

(5) Treatment as an in-patient in a hospital or other institution shall be available to an insured person in need of such treatment only so long as he is entitled to sickness cash benefit, disablement benefit or maternity benefit.

(6) When an insured person is receiving treatment as in-patient in a hospital or other institution, sickness cash benefit and disablement benefit payable to him shall be reduced to one-half of the amount which he would otherwise be entitled to receive :

Provided that the amount of such reduced benefit payable to any person shall not be less than four annas per day.

**Scale of medical benefit**

46. (1) An insured person shall be entitled to receive medical benefit only in such scale as may be provided by the Provincial Government or as the Board is able to provide and no insured person shall have a right to claim any medical treatment except such as is provided by the dispensary, hospital or other institution to which the factory in or in connection with which he is working, is allotted.

(2) Nothing in this Act shall entitle an insured person to claim reimbursement from the Corporation of any expense incurred by him in respect of any medical treatment.

**Provision of medical treatment by Provincial Government**

47. (1) The Provincial Government shall provide for insured persons in the Province reasonable medical, surgical and obstetric treatment (as out-patient or in-patient as the circumstances of the case may require) at dispensaries, hospitals or other institutions.

(2) Where the incidence of sickness cash benefit payment to workmen in any Province is found to exceed the all-India average, the amount of such excess shall be shared between the Corporation and the Provincial Government in such proportion as may be fixed by agreement between them :

Provided that the Corporation may in any case waive the recovery of the whole or any part of the share which is to be borne by the Provincial Government.

(3) The Board may enter into any agreement with a Provincial Government in regard to the nature and extent of the medical treatment that should be provided to workmen (including provision of buildings, equipment, medicines and staff) and for the sharing of the cost thereof and of any excessive incidence of sickness cash benefit, between the Corporation and the Provincial Government.

(4) In default of agreement between the Corporation and any Provincial Government as aforesaid the nature and extent of the medical treatment to be

provided by the Provincial Government and the proportion in which the cost thereof and of the excessive incidence of sickness cash benefit shall be shared between the Corporation and that Government, shall be determined by an arbitrator (who shall be a Judge of the High Court of the Province) appointed by the Chief Justice of the Province and the award of the arbitrator shall be binding on the Corporation and the Provincial Government.

**48.** (1) The Corporation may, with the approval of the Provincial Government, establish and maintain in a Province such hospitals, dispensaries and other medical and surgical services as it may think fit for the benefit of workmen. **Establishment and maintenance of hospitals, etc., by Corporation**

(2) The Corporation may enter into agreements with Indian States, private bodies or individuals in regard to the provision of medical treatment and attendance for workmen in any area and the sharing of the cost thereof.

#### *General*

**49.** (1) The right to receive any future payment of any benefit under this Act shall not be transferable or assignable. **Benefit not assignable or attachable**

(2) No cash benefit payable under this Act shall be liable to attachment or sale in execution of any decree or order of any Court.

**50.** When a person is entitled to any of the benefits provided by this Act, he shall not be entitled to receive any similar benefit admissible under the provisions of any other enactment. **Bar of benefits under other enactments**

**51.** (1) A workman shall not be entitled to accumulate any cash benefit admissible under this Act. **Workmen not to accumulate or commute cash benefits**

(2) Save as may be provided in the regulations, a workman shall not be entitled to commute for a lump sum any periodical payment admissible under this Act.

**52.** No person shall be entitled to receive sickness cash benefit or maternity benefit, or to receive disablement benefit at full rates for temporary disablement on any day on which he works and receives wages. **Workmen not entitled to receive benefits in certain cases**

**53.** A person who is in receipt of sickness cash benefit or disablement benefit (other than benefit granted on permanent disablement)— **Workmen to observe conditions**

(a) shall remain under medical treatment at a dispensary, hospital or other institution provided under this Act and shall carry out the instructions given by the medical officer in charge thereof;

(b) shall not while under treatment do anything which might retard or prejudice his chances of recovery;

(c) shall not leave the area in which medical treatment provided by this Act is being given, without the permission of the medical officer or of

such other authority as may be specified in this behalf by regulations ; and

(d) shall allow himself to be examined by any duly appointed medical officer or sick visitor or other person authorised by the Board in this behalf.

**Benefits not to be combined**

54. A workman shall not be entitled to receive for the same period—

(a) both sickness cash benefit and maternity benefit ; or

(b) both sickness cash benefit and disablement benefit at full rates for temporary disablement ; or

(c) both maternity benefit and disablement benefit at full rates for temporary disablement.

**Special provision where workman receives compensation or damages**

55. Where any insured person has received or recovered from his employer or any other person any compensation or damages under the Workmen's Compensation Act, 1923, or otherwise in respect of any employment injury, the following provisions shall apply, namely :—

(a) No sickness cash benefit or disablement benefit shall be payable to the workman in respect of the employment injury in any case where the weekly sum, or the weekly value of the lump sum, received or recovered by him as compensation or damages is equal to or greater than the benefit which would otherwise have been payable to him under this Act.

(b) Where the weekly sum or the weekly value of the lump sum received or recovered as compensation or damages is less than the benefit otherwise payable to the workman under this Act, such part only of the benefit shall be payable to him as, together with the weekly sum or weekly value of the lump sum received or recovered as compensation or damages, will be equal to the benefit.

(c) For the purposes of this Act, the weekly value of any lump sum received or recovered by a workman as compensation or damages shall be determined in such manner as may be specified in the regulations.

**Corporation's right to recover damages from employer in certain cases**

56. (1) Where any employment injury is sustained by an insured person by reason of the negligence of the employer to observe any of the safety rules laid down by or under any enactment applicable to a factory or by reason of any wrongful act of the employer or his agent, the Corporation shall (unless the workman has received or recovered from the employer compensation for the employment injury) be entitled to be reimbursed by the employer or the principal who is liable to pay compensation under section 12 of the Workmen's Compensation Act, 1923, the actuarial present value of the periodical payments which the Corporation is liable to make under this Act. VIII of 1923

(2) For the purposes of this Act, the actuarial present value of the periodical payments shall be determined in such manner as may be specified in regulations



57. Where an insured person is entitled to receive or to recover (but has not received or recovered), whether from his employer or any other person, compensation or damages under any law for the time being in force in respect of any employment injury caused under circumstances creating a legal liability of some person other than the employer or his agent, the Corporation shall be entitled to be indemnified by the person so liable :

Corporation's  
right to be  
indemnified in  
certain cases

Provided that the Corporation shall not be entitled to be indemnified by an employer who has paid contributions in respect of the workman sustaining the employment injury.

58. (1) If any principal employer fails or neglects to pay any contribution which under this Act he is liable to pay in respect of any workman and by reason thereof the workman is disentitled to any benefit or is entitled to a benefit on a lower scale the Corporation may, on being satisfied that the contribution should have been paid by the principal employer, pay to the workman the benefit at the rate to which he would have been entitled if the failure or neglect had not occurred and the Corporation shall be entitled to recover from the principal employer either—

Corporation's  
right to recover  
contribution  
neglected to be  
paid by principal  
employer

(i) the difference between the amount of benefit which is paid to the workman and the amount of the benefit which would be payable on the basis of the contributions actually paid by the employer; or

(ii) twice the amount of the contributions which the employer failed or neglected to pay ;  
whichever is greater.

(2) The amount recoverable under this section may be recovered as if it were an arrear of land revenue.

59. (1) Where it is alleged by the Board that the incidence of sickness among insured persons is excessive by reason of—

Liability of owner  
or occupier of  
factories, etc.,  
for excessive  
sickness cash  
benefit

(i) insanitary working conditions in a factory or the neglect of the owner or occupier of the factory to observe any health regulations enjoined on him by or under any enactment or

(ii) insanitary conditions of any tenements or lodgings occupied by insured persons and such insanitary condition is attributable to the neglect of the owner of the tenements or lodgings to observe any health regulations enjoined on him by or under any enactment,

the Board may send to the owner or occupier of the factory or to the owner of the tenements or lodgings, as the case may be, a claim for the payment of the amount of the extra expenditure alleged to have been incurred by the Corporation as sickness cash benefit ; and if the claim is not settled by agreement, the Board may refer the matter, with a statement in support of its claim, to the Provincial Government.

(2) If the Provincial Government is of opinion that a *prima facie* case for inquiry is disclosed, it may appoint a competent person to hold an inquiry into the matter.

(3) If upon such inquiry it is proved to the satisfaction of the person holding the inquiry that the excessive incidence of sickness among the insured persons is due to the default or neglect of the owner or occupier of the factory or the owner of the tenements or lodgings, as the case may be, the said person shall determine the amount of the extra expenditure incurred as sickness cash benefit, and the person or persons by whom the whole or any part of such amount shall be paid to the Corporation.

(4) A determination under sub-section (3) may be enforced as if it were a decree for payment of money passed in a suit by a civil Court.

(5) For the purposes of this section, "owner" of tenements or lodgings shall include any agent of the owner and any person who is entitled to collect the rent of the tenements or lodgings as a lessee of the owner.

Workman to  
repay benefit  
improperly  
received

60. (1) Where any person has received any benefit or payment under this Act when he is not lawfully entitled thereto, he shall be liable to repay to the Corporation the value of the benefit or the amount of such payment, or in the case of his death his representative shall be liable to repay the same from the assets of the deceased, if any, in his hands

(2) The value of any benefits received other than cash payments shall be determined by such authority as may be specified in the regulations made in this behalf and the decision of such authority shall be final.

(3) The amount recoverable under this section may be recovered as if it were an arrear of land revenue.

Benefit payable up  
to and including  
day of death of  
workman

61. If a workman dies during any period for which he is entitled to a cash benefit under this Act, the amount of such benefit up to and including the day of his death shall be paid to any person nominated by the deceased workman in writing in such form as may be specified in the regulations; or, if there is no such nomination, to the legal heir of the deceased workman.

Employer not to  
reduce wages, etc.

62. No employer by reason of his liability for any contributions payable under this Act shall, directly or indirectly reduce the wages of, or any privileges or benefits conferred on, any workman by the conditions of his service prevailing at the time the provisions of this Act were made applicable to him.

Employer not to  
dismiss or punish  
workman during  
period of sickness,  
etc.

63. (1) No employer shall dismiss, discharge or reduce any workman or punish him in any other manner—

(a) during the period he is under medical treatment or is in receipt of sickness cash benefit or maternity benefit; or

(b) while he is in receipt of disablement benefit, except in accordance with the regulations made under this Act; or

(c) in the case of a woman worker during such period of her absence from work as a result of illness medically certified to arise out of pregnancy or confinement and rendering her unfit for work, as may be specified in the regulations.

(2) Any notice of dismissal, discharge or reduction given to a workman which expires during the period specified in sub-section (1) shall be invalid and inoperative.

## CHAPTER VI

### *Adjudication of Disputes and Claims*

**64.** (1) The Provincial Government shall, by notification in the official Gazette, constitute a Workmen's Insurance Court for such local area as may be specified in the notification. **Constitution of  
Workmen's  
Insurance Court**

(2) The Court shall consist of such number of Judges as the Provincial Government may think fit.

(3) The Provincial Government may appoint the same Court for two or more local areas or two or more Courts for the same local area.

(4) Where more than one Court has been appointed for the same local area, the Provincial Government may by general or special order regulate the distribution of business between them.

**65.** (1) If any question or dispute arises as to—

(a) whether any person is a workman within the meaning of this Act or whether he is liable to pay the workman's contribution ; or **Matters to be  
decided by  
Workmen's  
Insurance Court**

(b) the rate of wages or average daily wages of a workman ; or

(c) the rate of contribution payable by a principal employer in respect of any workman ; or

(d) the person who is or was the principal employer in respect of any workman ; or

(e) the right of any person to any benefit and as to the amount and duration thereof ; or

(f) the weekly value of any lump sum received or recovered by a workman as compensation or damages referred to in section 55 ; or

(g) the actuarial present value of the periodical payments referred to in section 56 ; or

(h) any other matter which is in dispute between a principal employer and the Corporation, or between a principal employer and an immediate employer, or between a workman and the Corporation or between a workman and a principal or immediate employer, in respect of any contribution or benefit payable or recoverable under this Act ;

such question or dispute shall be decided by the Workmen's Insurance Court in accordance with the provisions of this Act.

(2) The following claims shall be decided by the Workmen's Insurance Court, namely :—

(a) claim for the recovery of contributions from the principal employer ;

(b) claim by a principal employer to recover contributions from any immediate employer ;

(c) claim under section 56 or 57 made by the Corporation against the employer or other person liable thereunder ;

(d) claim against a principal employer under section 58 ;

(e) claim under section 60 for the recovery of the value or amount of the benefits received by a person when he is not lawfully entitled thereto ; and

(f) any claim for the recovery of any benefit admissible under this Act.

(3) No civil Court shall have jurisdiction to decide or deal with any question or dispute as aforesaid or to adjudicate on any liability which by or under this Act is to be decided by the Workmen's Insurance Court.

**Institution of proceedings, etc.**

**66.** (1) Subject to the provisions of this Act and any rules made by the Provincial Government, all proceedings before the Workmen's Insurance Court shall be instituted in the Court appointed for the local area in which the insured person was working at the time the question or dispute arose.

(2) If the Court is satisfied that any matter arising out of any proceedings pending before it can be more conveniently dealt with by any other Workmen's Insurance Court in the same Province, it may, subject to any rules made by the Provincial Government in this behalf, order such matter to be transferred to such other Court for disposal and shall forthwith transmit to such other Court the records connected with that matter.

(3) The Provincial Government may transfer any matter pending before any Workmen's Insurance Court in the Province to any such Court in another Province with the consent of the Provincial Government of that Province.

(4) The Court to which any matter is transferred under sub-section (2) or sub-section (3) shall continue the proceedings as if they had been originally instituted in it.

**Commencement of proceedings**

**67.** (1) The proceedings before a Workmen's Insurance Court shall be commenced by application.

(2) Every such application shall be in such form and shall contain such particulars and shall be accompanied by such fee, if any, as may be prescribed by rules made by the Provincial Government.

**Powers of Workmen's Insurance Court**

**68.** (1) The Workmen's Insurance Court shall have all the powers of a civil Court for the purposes of summoning and enforcing the attendance of witnesses, compelling the discovery and production of documents and material objects, administering oath and recording evidence ; and such Court shall be deemed to be a civil Court within the meaning of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898.

(2) The Workmen's Insurance Court shall follow such procedure as may be prescribed by rules made by the Provincial Government.

(3) All costs incidental to any proceeding before a Workmen's Insurance Court shall, subject to such rules as may be made in this behalf by the Provincial Government, be in the discretion of the Court.

(4) An order of the Workmen's Insurance Court shall be enforceable as if it were a decree passed in a suit by a civil Court.

69. Any application, appearance or act required to be made or done by any person to or before a Workmen's Insurance Court (other than appearance of a person required for the purpose of his examination as a witness) may be made or done by a legal practitioner or by an officer of a registered trade union authorized in writing by such person.

Appearance by legal practitioners, etc.

70. A Workmen's Insurance Court shall not direct the payment of any benefit to a person unless he has made a claim for such benefit in accordance with the regulations made in that behalf, within six months after the claim became due :

Benefit not admissible unless claimed in time

Provided that if the Court is satisfied that there was reasonable excuse for not making a claim for the benefit within six months after it became due, it may direct the payment of the benefit as if the claim had been made in time.

71. A Workmen's Insurance Court may submit any question of law for the decision of the High Court and if it does so shall decide the question pending before it in accordance with such decision.

Reference to High Court

72. (1) Save as expressly provided in this section, no appeal shall lie from an order of a Workmen's Insurance Court

Appeal

(2) An appeal shall lie to the High Court from an order of a Workmen's Insurance Court if it involves a substantial question of law.

(3) An appeal under sub-section (2) shall be presented within sixty days of the date of the order appealed against.

**XL of 1908** (4) The provisions of section 5 of the Indian Limitation Act, 1908, shall apply to appeals under this section.

73. Where the Corporation has presented an appeal against an order of the Workmen's Insurance Court, that Court may, and if so directed by the High Court shall, pending the decision of the appeal, withhold the payment of any sum directed to be paid by the order appealed against.

Stay of payment pending appeal

## CHAPTER VII

### Penalties

74. Whoever, for the purpose of causing any increase in payment or benefit under this Act, or for the purpose of causing any payment or benefit to be made where no payment or benefit is authorized by or under this Act,

Punishment for false statement

or for the purpose of avoiding any payment to be made by himself under this Act or enabling any other person to avoid any such payment, knowingly makes or causes to be made any false statement or false representation, shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding five hundred rupees, or with both.

**Punishment for failure to pay contributions, etc.**

**75. If any person—**

(a) fails to pay any contribution which under this Act he is liable to pay; or

(b) deducts or attempts to deduct from the wages of a workman the whole or any part of the employer's contribution; or

(c) reduces the wages or any privileges or benefits admissible to a workman, in contravention of section 62; or

(d) dismisses, discharges, reduces or otherwise punishes a workman in contravention of section 63 or any regulation; or

(e) fails or refuses to submit any return required by the regulations or makes a false return; or

(f) obstructs any inspector or other official of the Corporation in the discharge of his duties; or

(g) is guilty of any contravention of or non-compliance with any of the requirements of this Act or the regulations in respect of which no special penalty is provided;

he shall be punishable with fine which may extend to five hundred rupees.

**Enhanced fine on second or subsequent conviction for same offence in certain cases**

**76. If any person who has been convicted of any offence under section 74 or 75 is again guilty of the same offence, the fine that may be imposed on him may extend to seven hundred and fifty rupees and shall not be less than one hundred rupees and in the case of a third or subsequent conviction for the same offence the fine that may be imposed on such person may extend to one thousand rupees and shall not be less than two hundred and fifty rupees:**

Provided that for the purposes of this section the Court shall not take into account any conviction made more than two years before the commission of the offence which is being punished:

Provided further that the Court, if it is satisfied that there are exceptional circumstances warranting such a course, may, after recording its reasons, impose a smaller fine than is required by this section.

**Prosecutions**

**77. (1)** No prosecution under this Act shall be instituted except by or with the previous sanction of the Insurance Commissioner.

(2) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(3) No Court shall take cognizance of any offence under this Act except on a complaint made in writing in respect thereof, within six months of the date on which the offence is alleged to have been committed.

## CHAPTER VIII

### Miscellaneous

**78.** The Provincial Government may, by notification **Exemptions** in the official Gazette and subject to such conditions as may be specified in the notification, exempt any factory or class or group of factories from the operation of all or any of the provisions of this Act, for a period not exceeding one year and may thereafter from time to time by like notification renew any such exemption for periods not exceeding one year at a time :

Provided that no such exemption shall be granted or renewed after the expiry of four months after the commencement of this Act unless a reasonable opportunity has been given to the Board to make any representation it may wish to make in regard to the proposal and such representation has been considered by the Provincial Government.

**79.** The Central Government may give directions to a Provincial Government as to the carrying into execution of this Act in the Province **Power of Central Government to give directions**

**80.** All officers and servants of the Corporation shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. **Corporation officers and servants to be public servants**

**81.** There shall be deemed to be included among the debts which, under section 49 of the Presidency-towns Insolvency Act, 1909, or under section 61 of the Provincial Insolvency Act, 1920, or under section 230 of the Indian Companies Act, 1913, are, in the distribution of the property of the insolvent or in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, the amount due in respect of any contribution or any other amount payable under this Act the liability wherefor accrued before the date of the order of adjudication of the insolvent or the date of the winding up, as the case may be. **Contributions, etc., due to Corporation to have priority over other debts**

III of 1909

V of 1920

VII of 1913

**82. (1)** The Central Government may, subject to the condition of previous publication, make rules not inconsistent with this Act in regard to the incorporation, regulation and winding up of the Corporation. **Power of Central Government to make rules**

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :

(a) the manner in which nominations and elections of members of the Board, Standing Committee and Medical Benefit Council shall be made ;

(b) the quorum at meetings of the Board, the Standing Committee and the Medical Benefit Council and the minimum number of meetings of those bodies to be held in a year ;

(c) the records to be kept of the transaction of business by the Board, Standing Committee and the Medical Benefit Council ;

(d) the powers and duties of the Principal Officers and the conditions of their service ;

(e) the powers and duties of the Medical Benefit Council ;

(f) the procedure to be adopted in the execution of contracts ;

(g) the acquisition, holding and disposal of property by the Board ;

(h) the raising and re-payment of loans ;

(i) the investment of the funds of the Corporation and of any provident or other benefit fund and their transfer or realisation ;

(j) the basis on which the periodical valuation of the assets and liabilities of the Corporation shall be made ;

(k) the bank or banks in which the Corporation funds may be deposited, the procedure to be followed in regard to the crediting of moneys accruing or payable to the Corporation and the manner in which any sums may be paid out of the Corporation funds and the officers by whom such payment may be authorized ;

(l) the accounts to be maintained by the Corporation and the forms in which such accounts shall be kept and the times at which such accounts shall be audited ;

(m) the publication of the accounts of the Corporation and the report of auditors, the action to be taken on the audit report, the powers of auditors to disallow and surcharge items of expenditure and the recovery of sums so disallowed or surcharged ;

(n) the preparation of budget estimates and of supplementary estimates and the manner in which such estimates shall be sanctioned and published ;

(o) the establishment and maintenance of provident or other benefit fund for officers and servants of the Board ; and

(p) any matter which is required or allowed by this Act to be prescribed by the Central Government.

(3) Rules made under this section shall be published in the official Gazette and thereupon shall have effect as if enacted in this Act.

**Power of Provincial Government to make rules**

**83.** (1) The Provincial Government may, subject to the condition of previous publication, make rules not inconsistent with this Act in regard to all or any of the following matters, namely :—

(a) the constitution of Workmen's Insurance Courts, the qualifications of persons who may be appointed Judges thereof, and the conditions of service of such Judges :



(b) the procedure to be followed in proceedings before such Courts and the execution of orders made by such Courts ;

(c) the fee payable in respect of applications made to the Workmen's Insurance Court, the costs incidental to the proceedings in such Court, the form in which applications should be made to it and the particulars to be specified in such applications ;

(d) the establishment of hospitals, dispensaries and other institutions, the allotment of particular factories to any such hospital, dispensary or other institution ;

(e) the scale of medical benefit which shall be provided at any such hospital, dispensary or institution, the keeping of medical records and the furnishing of statistical returns ;

(f) the nature and extent of the staff, equipment and medicines that shall be provided at such hospitals, dispensaries and institutions ;

(g) the conditions of service of the staff employed at such hospitals, dispensaries and institutions ; and

(h) any other matter which is required or allowed by this Act to be prescribed by the Provincial Government.

(2) Rules made under this section shall be published in the official Gazette and thereupon shall have effect as if enacted in this Act.

**84. (1)** The Board may, subject to the condition of previous publication, make regulations, not inconsistent with this Act and the rules made thereunder, for the administration of the affairs of the Corporation and for carrying into effect the provisions of this Act. **Power of Board to make regulations**

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(a) the time and place of meetings of the Board, the Standing Committee and the Medical Benefit Council and the procedure to be followed at such meetings ;

(b) the matters which shall be referred by the Standing Committee to the Board for decision ;

(c) the manner in which any contribution payable under this Act shall be assessed and collected ;

(d) the certification of sickness and eligibility for any cash benefit ;

(e) the method of determining the actuarial present value of periodical payments ;

(f) the method of determining the weekly value of any lump sum received or recovered by a workman as compensation or damages ;

(g) the assessing of the money value of any benefit which is not a cash benefit ;

(h) the time within which and the form in which any claim for a benefit may be made and the particulars to be specified in such claim ;

(i) the circumstances in which a workman in receipt of disablement benefit may be dismissed, discharged, reduced or otherwise punished ;

(j) the manner in which and the place and time at which any benefit shall be paid ;

(k) the method of calculating the amount of cash benefit payable to a workman and the circumstances in which and the extent to which commutation of disablement and dependents benefits, may be allowed and the method of calculating the commutation value ;

(l) the notice of pregnancy or of confinement and notice and proof of sickness ;

(m) the conditions under which any benefit may be suspended ;

(n) the conditions to be observed by a person when in receipt of any benefit and the periodical medical examination of such persons ;

(o) the visiting of sick persons ;

(p) the appointment of medical practitioners for the purposes of this Act, the duties of such practitioners and the form of medical certificates ;

(q) the penalties for breach of regulations by fine (not exceeding five rupees for a first breach and not exceeding ten rupees for any subsequent breach) or suspension of benefits (for a period not exceeding one year), which may be imposed on workmen ;

(r) the circumstances in which and the conditions subject to which any regulation may be relaxed, the extent of such relaxation, and the authority by whom such relaxation may be granted ;

(s) the returns to be submitted by the principal and immediate employers, the form in which and the times at which such returns should be submitted and the particulars to be given in such returns ;

(t) the duties and powers of inspectors and other officers and servants of the corporation ;

(u) the conditions of service of the officers and servants of the Corporation other than the Principal Officers ;

(v) the procedure to be followed in remitting contributions to the Corporation ;

(w) the portion of the expenses of remitting contributions which should be borne by the principal employer, and

(x) any matter in respect of which regulations are required or permitted to be made by this Act.

(3) Regulations made by the Board shall be published in the Gazette of India and thereupon shall have effect as if enacted in this Act.

85. The Corporation may, at the request of the Government of an Indian State and with the previous permission of the Central Government and subject to such conditions as may be imposed by it, undertake to discharge in the Indian State any duty which may be specified in a State law corresponding to this Act.

Corporation may undertake duties in the Indian States

86. At any time when the funds of the Corporation so permit, the Board may enhance the scale of any benefit admissible under this Act and the period for which such benefit may be given.

Enhancement of benefits

## SCHEDULE I

(See Section 31)

The amount of weekly contribution payable in respect of a workman shall be calculated with reference to his average daily wages.

2. The average daily wages shall be—

(a) in respect of a workman employed on daily wages, the amount of wages earned during the previous week divided by the number of days worked (reckoned in terms of full working days);

(b) in respect of a workman employed on weekly wages, the amount earned in the previous week divided by the number of days worked (reckoned in terms of full working days);

(c) in respect of a workman employed on monthly wages, the amount earned in the previous month divided by the number of days worked (reckoned in terms of full working days);

(d) in respect of a workman employed on the basis of any other wage period, the wages for the period previous to the week for which contribution is due divided by the number of days worked (reckoned in terms of full working days) during the period;

(e) in respect of a workman paid at piece-work rate, the amount earned during the previous week divided by the number of days worked (reckoned in terms of full working days);

(f) in respect of a workman who does not fall under clauses (a) to (e), the amount calculated on the basis of wages earned for the day on which the contribution is due.

3. (a) For the purposes of fixing the amount of weekly contribution payable, workmen shall be divided into six groups on the basis of their average daily wages ascertained in the manner specified in paragraph 2.

(b) The workmen's contribution and employer's contribution payable in respect of the group of workmen specified in the first column of the table below shall be at the rates respectively specified in the corresponding entries in the second and third columns thereof

TABLE

Group of workmen	Workmen's contribution (recoverable from workmen)	Em- ployer's contribution	Total contribution (workmen's and em- ployer's con- tribution)
1	2	3	4
	Rs. A. P.	Rs. A. P.	Rs. A. P.
1. Workmen whose average daily wages are below 10 annas.	Nil	0 5 6	0 5 6
2. Workmen whose average daily wages are 10 annas and above but below Re. 1.	0 1 0	0 6 0	0 7 0
3. Workmen whose average daily wages are Re. 1 and above but below Rs. 1-8-0.	0 2 0	0 7 0	0 9 0
4. Workmen whose average daily wages are Rs. 1-8-0 and above but below Rs. 2.	0 4 0	0 8 0	0 12 0
5. Workmen whose average daily wages are Rs. 2 and above but below Rs. 3.	0 6 0	0 12 0	1 2 0
6. Workmen whose average daily wages are Rs. 3 and above.	0 8 0	1 0 0	1 8 0

## SCHEDULE II

(See sections 39, 41 and 42)

*Sickness Cash Benefit and Disablement and Dependents' Benefits.*

1. The average daily wages of a workman in each of the groups specified in the first column of the table below shall, for the purpose of calculating the sickness cash benefit and disablement and dependents' benefits be the rate specified in the corresponding entry in the second column thereof.

TABLE

Group of workmen	Average daily wages
	Rs. A. P.
1. Workmen whose average daily wages are below 10 annas a day.	0 8 0
2. Workmen whose average daily wages are 10 annas and above, but below Re. 1.	0 13 0
3. Workmen whose average daily wages are Re. 1 and above, but below Rs. 1-8-0.	1 4 0
4. Workmen whose average daily wages are Rs. 1-8-0 and above, but below Rs. 2.	1 12 0
5. Workmen whose average daily wages are Rs. 2 and above, but below Rs. 3.	2 8 0
6. Workmen whose average daily wages are Rs. 3 and above.	3 8 0

2. The sickness cash benefit shall be an amount equivalent to one-half of the sum of the average daily wages as aforesaid for each of the weeks for which contributions were paid in respect of the workman during the period of twenty-six weeks immediately preceding the week in which the claim falls due, divided by twenty-six; provided that where the amount of the benefit so calculated includes a fraction of an anna, it shall be rounded to the next higher anna. The calculation indicated above is illustrated by the following examples :-

*Example 1.*—If the average daily wages of a workman were 8 annas a day for 10 weeks, 13 annas a day for 10 weeks and Rs. 1-4-0 a day for 6 weeks, the average daily wages during the preceding 26 weeks will be :—

$$\frac{10 \times 8 + 10 \times 13 + 6 \times 20}{26} = 12 \frac{18}{26} \text{ annas.}$$

The sickness cash benefit payable will then be  $6 \frac{9}{13}$  annas, rounded to the next higher anna namely, 7 annas a day.

*Example 2.*—If the workman worked for only 17 weeks in the period of 26 weeks and his average daily wages were 13 annas for 10 weeks and Rs. 1-4-0 for 7 weeks, the average daily wages during the preceding 26 weeks will be :—

$$\frac{10 \times 13 + 7 \times 20}{26} = 10 \frac{10}{26} \text{ annas.}$$

The sickness cash benefit payable will then be  $5 \frac{5}{13}$  annas a day, rounded to the next higher anna, namely, 6 annas.

*Example 3.*—If the workman worked for 21 weeks and his average daily wages were Rs. 1-4-0 throughout the period, the average daily wages during the preceding 26 weeks will be :—

$$\frac{20 \times 21}{26} = 16 \frac{4}{26} \text{ annas.}$$

The sickness cash benefit payable will be  $8 \frac{2}{13}$  annas, rounded to the next higher anna, namely, 9 annas.

3. The sickness cash benefit admissible to a person claiming the benefit during a protected period shall be calculated on the basis of his average daily wages during the twenty-six weeks preceding the week in which the protected period commenced.

4. Disablement benefit and dependants' benefit shall be an amount equivalent to one-half of the sum of the average daily wages for each of the weeks for which contributions were paid in respect of the workman during the period of fifty-two weeks immediately preceding the week in which the claim falls due divided by the number of weeks for which contributions were so paid,

provided that where the amount of the benefit so calculated includes a fraction of an anna, it shall be rounded to the next higher anna. The calculation indicated above is illustrated by the following examples :—

*Example 1.*—If the average daily wages of a workman are 8 annas a day for 20 weeks, 13 annas a day for 20 weeks and Rs. 1-4-0 a day for 12 weeks the average daily wages during the preceding 52 weeks will be :—

$$\frac{20 \times 8 + 20 \times 13 + 12 \times 20}{52} = 12 \frac{18}{26} \text{ annas.}$$

The disablement or dependants' benefit will then be  $12 \frac{18}{26}$  annas, rounded to the next higher anna, i.e., 7 annas a day.

*Example 2.*—If the workman works only for 34 weeks in the period of 52 weeks preceding the week in which the claim falls due, and his average daily wages were 13 annas a day for 20 weeks and Rs. 1-4-0 for 14 weeks, the average daily wages during the preceding 52 weeks will be :—

$$\frac{20 \times 13 + 14 \times 20}{34} = 15 \frac{30}{34} \text{ annas.}$$

The disablement or dependants' benefit will be  $15 \frac{30}{34}$  annas, rounded to the next higher anna, namely, 8 annas a day.

*Example 3.*—If the workman worked for only two weeks during the 52 weeks preceding the week in which the claim falls due, and the average daily wages were Rs. 2-8-0 a day, the average daily wages during the preceding 52 weeks will be :—

$$\frac{2 \times 40}{2} = 40 \text{ annas.}$$

The disablement and dependants' benefit will be 20 annas or Rs. 1-4-0 a day.

The disablement or dependants' benefits calculated as aforesaid shall be called the full rate.

5. The benefit shall be payable to a workman or his dependants qualified or adjudged to be eligible under the Workmen's Compensation Act, 1923, as follows :—

VIII of 1923

(i) to a workman—

(a) for temporary disablement, during the period of such disablement, at the full rate ;

(b) for permanent partial disablement, at a percentage of the full rate, as provided in section 4 of the Workmen's Compensation Act, 1923, for life ;

VIII of 1923

(c) for permanent total disablement, at the full rate for life ;

(ii) in the case of the death of the workman, to his widow or widows and legitimate children as follows :—

(a) to the widow during life or until remarriage, an amount equivalent to three-fifths of the full rate and, if there are two or more widows, the amount payable to the widow as aforesaid shall be divided equally between the widows ;

(b) to each legitimate son, an amount equivalent to two-fifths of the full rate until he attains eighteen years of age ;

(c) to each legitimate daughter, an amount equivalent to two-fifths of the full rate until she attains eighteen years of age or until marriage, whichever is earlier :

Provided that if the total of the dependants' benefits distributed among the widow or widows and legitimate children of the deceased workman as aforesaid exceeds the full rate, the share of each of the dependants shall be proportionately reduced, so that the total amount payable to them does not exceed the amount of disablement benefit at the full rate.

6. In case the deceased workman does not leave a widow or legitimate child, dependants' benefit at such rates as may be determined by the Commissioner appointed under the Workmen's Compensation Act,

VIII of 1923 1923, shall be payable as follows :—

(a) to a parent or grand parent, for life ;

(b) to any other male dependant, until he attains eighteen years of age ;

(c) to any other female dependant, until she attains eighteen years of age or until marriage, whichever is earlier, or if widowed, until she attains eighteen years of age.

7. The sickness cash benefit calculated under paragraphs 2 and 3 and the disablement or dependants' benefit calculated under paragraph 4 shall be subject to a minimum of 4 annas a day and a maximum of Rs. 1-12-0 a day.

#### STATEMENT OF OBJECTS AND REASONS

1. The introduction of a scheme of Health Insurance for Industrial Workers has been under the consideration of the Government of India for a long time. The necessity for such a scheme has become more urgent in view of the conditions brought about by war. The scheme envisaged is one of compulsory state insurance providing for certain benefits in the event of sickness, maternity and employment injury to workmen employed in or in connection with work in factories other than seasonal factories.

2. A scheme of this nature has to be planned on an all-India basis and administered uniformly throughout the country. With this object, the administration of the scheme is proposed to be entrusted to a Corporation constituted by central legislation.

3. The functions of the Corporation will be performed by a Central Board constituted of representatives of 'Central and Provincial Governments, and of employers,' workers and the medical profession. The Board will also include certain members elected by the Central Legislative Assembly. A Standing Committee of the Board will act as the Executive of the Board, and a Medical Benefit Council will also be set up to advise on matters relating to the administration of medical benefit.

4. The insurance fund will be mainly derived from contributions from employers and workmen. The contributions payable in respect of each workman will be based on his average wages and will be payable in the first instance by the employer. The employer will be entitled to recover the workman's share from the wages of the workmen concerned. Workmen whose earnings do not exceed 10 annas a day will be totally exempt from payment of any share of the contribution, the entire contribution on account of such workmen being met by employer. Provision has been made for the preparation of proper budgets and the audit of accounts.

5. The insured workman will be entitled to the following benefits—

(a) *Sickness Cash Benefit*.—A workman, if certified sick and incapable of working, will receive for a period not exceeding 8 weeks in any continuous 12 monthly period, a cash allowance equal approximately to half his average daily wages during previous six months. He will also be entitled to receive medical care and treatment at such hospitals, dispensaries or other institutions to which the factory in which he is employed may be allotted.

(b) *Maternity Benefit*.—Woman workers will be entitled to receive a maternity benefit at 12 annas a day for 12 weeks. They will also be entitled to medical aid at the aforesaid medical institutions.

(c) *Disablement and Dependents' Benefits*.—A workman disabled by employment injury will receive, for the period of disablement or life depending on whether the disablement is temporary or full and permanent as the case may be, a monthly pension equivalent to half his average wages during the previous twelve months, subject to a maximum and minimum. Where disablement is partial, the pension will be proportionately reduced. In case of death resulting from employment injury, the pension will be payable to the widow or widows, minor sons and minor and unmarried daughters, or in case there are no widow and legitimate children, to other dependants, of the deceased workman. The workman will also be entitled to medical care and treatment.

6. Medical cure and treatment to insured workmen will be provided by Provincial Governments at such hospitals, dispensaries and other institutions as may be prescribed for the purpose. The cost of the medical benefit will be shared between the Provincial Government and the Corporation in such proportions as may be agreed upon between them. In case the average incidence of sickness cash benefit in any Province is in excess of the all-India average, Provincial Government will also bear such share of the cost of the excess incidence as may be agreed upon between it and the Corporation.

7. Workman's State Insurance Courts will be set up to decide disputes and adjudicate on claims. The cost of the tribunal will be paid by the insurance fund.

8. Central Government will make rules on matters relating to the administration of the Corporation, such as nomination and election of members of the Board, Standing Committee, Medical Benefit Council, powers and duties of the principal officers, raising of loans, investment of funds, accounts to be maintained by the Corporation, their audit and publication. Provincial Government will make rules on matters relating to the workmen's insurance courts to be set up under the Act, establishment of hospitals dispensaries, medical



institutions, etc. and the scale of medical benefit to be provided to insured persons. The Board will make regulations on matters relating to the working of the scheme, e.g., collection of contributions, payment of benefits, returns and other particulars to be submitted by employers in respect of workmen employed by them, the conditions to be observed by insured persons in receipt of benefits, etc.

9. The Bill makes detailed provisions in regard to the above matters. As the clauses are self-explanatory, Notes on Clauses have not been appended.

JAGJIVAN RAM.

NEW DELHI;

The 17th October, 1946.

The following \*Bill was introduced in the Legislative Assembly on the 6th November 1946:—

L. A. BILL No. 59 of 1946

*A Bill to provide for the continuance of certain emergency powers in relation to requisitioned land.*

XXXV of 1939 WHEREAS it is expedient to provide, in relation to land which, when the Defence of India Act, 1939, expired, was subject to any requisition effected under rules made under that Act, for the continuance of certain powers theretofore exerciseable under the said Act or the said rules :

NIX of 1946 AND WHEREAS the Requisitioned Land (Continuance of Powers) Ordinance, 1946, provided for the continuance of such powers, as the Indian Legislature was not in session ;

9 and 10 Geo. 6, c. 39 AND WHEREAS the Indian Legislature has been empowered by section 3 of the India (Central Government and Legislature) Act, 1946, to make laws with respect to the matters aforesaid ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Requisitioned Land (Continuance of Powers) Act, 1946. Short title, extent and duration

(2) It extends to the whole of British India.

9 and 10 Geo. 6, c. 39 X of 1897 (3) It shall cease to have effect on the expiration of the period mentioned in section 4 of the India (Central Government and Legislature) Act, 1946, except as respects things done or omitted to be done before the expiration thereof, and section 6 of the General Clauses Act, 1897, shall apply upon the expiry of this Act as if it had then been repealed by a Central Act.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions

(1) "appropriate Government" means, in relation to any requisitioned land, the Central or Provincial Government by which or under the authority of which the land has been requisitioned ;

\*The Governor-General has been pleased to give the previous sanction required by Clause (b) of sub-section 1 of section 108 of Government of India Act, 1935 and sub-section 3 of section 2, read with sub-section 1 of section 3, of the India (Central Government and Legislature) Act, 1946 to the introduction in the Legislative Assembly of this Bill.

(2) "Ordinance" means the Requisitioned Land (Continuance of Powers) Ordinance, 1946;

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(3) "Provincial Government" means, in relation to a Chief Commissioner's Province, the Chief Commissioner;

(4) "requisitioned land" means immovable property which at the commencement of this Act is subject to any requisition effected under the rules made under the Defence of India Act, 1939.

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Continuance of requisitions

3. Notwithstanding the expiration of the Defence of India Act, 1939, and the rules made thereunder and the repeal of the Ordinance, all requisitioned lands shall continue to be subject to requisition until the expiry of this Act and the appropriate Government may use or deal with any requisitioned land in such manner as may appear to it to be expedient:

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Provided that the appropriate Government may at any time release from requisition any requisitioned land.

Release from requisition

4. (1) Where any requisitioned land is to be released from requisition, the appropriate Government may, after making such inquiry, if any, as it considers necessary, specify by order in writing the person to whom possession of the land shall be given.

(2) The delivery of possession of the requisitioned land to the person specified in an order made under sub-section (1) shall be a full discharge of the Government from all liability in respect of such delivery, but shall not prejudice any rights in respect of the land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(3) Where the person to whom possession of any requisitioned land is to be given cannot be found and has no agent or other person empowered to accept delivery on his behalf, the appropriate Government shall cause a notice declaring that the land is released from requisition to be affixed on some conspicuous part of the land and publish the notice in the official Gazette.

(4) When a notice referred to in sub-section (3) is published in the official Gazette, the land specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the Government shall not be liable for any compensation or other claim in respect of the land for any period after the said date.

Power to acquire requisitioned land

5. (1) Subject to the provisions of sub-section (3), the appropriate Government may, at any time when any requisitioned land continues to be subject to requisition under section 3, acquire such land by publishing in the official Gazette a notice to the effect that such Government has decided to acquire such land in pursuance of this section.

(2) When a notice as aforesaid is published in the official Gazette, the requisitioned land, shall on and from the beginning of the day on which the notice is so published, vest absolutely in the appropriate Government free from all encumbrances and the period of requisition of such land shall end.

(3) No requisitioned land shall be acquired under this section except in the following circumstances, namely :—

(a) where any works have during the period of requisition been constructed on, in or over the land wholly or partly at the expense of Government and the appropriate Government decides that the value of, or the right to use, such works should be preserved or secured for the purposes of Government ; or

(b) where the cost of restoring the land to its condition at the time of its requisition would, in the determination of the appropriate Government, be excessive having regard to the value of the land at that time ; or

(c) where the appropriate Government decides that such acquisition is necessary for any purpose connected with the maintenance of the defence services or with the maintenance of supplies and services essential to the life of the community.

(4) Any decision or determination of the appropriate Government under sub-section (3) shall be final, and shall not be called in question in any Court.

(5) For the purposes of clause (a) of sub-section (3) "works" includes buildings, structures and improvements of every description.

6. Where under this Act or the Ordinance any Payment of compensation requisitioned land is continued under requisition for a period and is thereafter released from requisition or is acquired, compensation for such continued requisition and, as the case may be, acquisition of the land shall be determined and paid in accordance with the provisions of section 19 of the Defence of India Act, 1939, and the rules made thereunder; and for the purposes of such determination and payment—

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1939

(a) the said provisions and rules shall be deemed to be in force subject to the modification that references therein to section 19A of the Defence of India Act, 1939, shall be construed as references to section 5 of this Act ; and

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(b) all agreements and awards under section 19 of the Defence of India Act, 1939, in regard to the payment of compensation for the period of requisition before the expiry of that Act shall continue to be in force and shall apply to the payment of compensation for the period of requisition after such expiry.

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Power to obtain  
information

7. (1) The appropriate Government may, with a view to carrying out the purposes of sections 3 to 6, by order require any person to furnish to such authority as may be specified in the order such information in his possession relating to any requisitioned land as may be so specified.

(2) If any person fails to furnish any information required by an order under sub-section (1), or furnishes any information which is false and which he either knows or has reasonable cause to believe to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Delegation of  
functions

8. The Central Government or any Provincial Government may, by order notified in the official Gazette, direct that any power conferred or any duty imposed on it by this Act shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer as may be so specified.

Protection of action  
taken under the  
Act

9. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

(2) No suit or other legal proceeding shall lie against the Crown for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

Repeal of Ord.  
XIX of 1946

10. The Requisitioned Land (Continuance of Powers) Ordinance, 1946, is hereby repealed; and anything done in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done in exercise of powers conferred by or under this Act, as if this Act had commenced on the 1st day of October, 1946.

### STATEMENT OF OBJECTS AND REASONS

Rule 75A of the Defence of India Rules provided *inter alia* for the temporary requisition and the permanent acquisition of lands and buildings for the purposes indicated in sub-rule (1) of that rule. A large number of lands and buildings had been requisitioned by the Central Government as well as by the Provincial Governments, and immediately before the expiry of the Defence of India Act, were still in the use and occupation of Government for various public purposes. If the Defence of India Act had been allowed to expire without any legislative action in this respect, the lands and buildings permanently acquired under sub-rule (2) of rule 75A would not have been affected, but it would have been necessary to return forthwith to the owners all lands and buildings which had only been requisitioned, whether for a definite or an indefinite period.

2. Retention of some of the requisitioned lands and buildings beyond the 30th September was, and still is, necessary for several reasons. The problem of quartering Armed Forces and ancillary services and of finding storage accommodation for their equipment and stores will continue to exist for a considerable time. Troop movement is still greatly in excess of peace time movement, with the result that transit

amps and other facilities have to be temporarily retained. Valuable assets have been created during the war period on many of the requisitioned lands the value of which at the time of requisition was only a fraction of their present value. Government could not, however, legally claim from the owners any part of this increase in value and the return of all such properties on the 1st October would have resulted in an enormous loss of public money.

3. It was accordingly necessary to provide for the continuance without a break of the existing powers in relation to requisitioned land beyond the 30th September, 1946. Since the Legislature was not then in session this was done by an Ordinance promulgated on the 25th September, 1946. The present Bill reproduces the provisions of that Ordinance with necessary modifications. It is within the competence of the Indian Legislature by virtue of section 3 of the India (Central Government and Legislature) Act, 1946.

4. The main provisions of the Bill are—

- (i) clause 3 which provides for the continuance of all requisitions in force immediately before the expiry of the Defence of India Act and of the power of Government to use or deal with the lands in any manner it thinks fit ;
- (ii) proviso to clause 3 and clause 4, which provides for the release from requisition of any requisitioned land when no longer required by Government ;
- (iii) clause 5 which provides for the permanent acquisition of any of the requisitioned lands in certain specified circumstances without resort to the cumbrous procedure laid down in the Land Acquisition Act, 1894. The first two circumstances specified in sub-clause (3) of this clause are the same as those specified in section 19A of the Defence of India Act, 1939, while the third is considered essential and eminently justifiable ; and
- (iv) clause 6 which provides for the payment of compensation in respect of the continuance of requisition and any permanent acquisition effected under the Act. The principles and procedure for this purpose will be the same as those laid down in section 19 of the Defence of India Act, 1939.

NEW DELHI ;

G. S. BHALJA.

The 31st October, 1946.

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M.N. KAUL,

Secretary of the Legislative Assembly

